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सं. 12] नई दिल्ली, मार्च 13—मार्च 19, 2016, शनिवार/फाल्गुन 23—फाल्गुन 29, 1937
No. 12] NEW DELHI, MARCH 13—MARCH 19, 2016, SATURDAY/PHALGUNA 23—PHALGUNA 29, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 2 फरवरी, 2016

का.आ. 480.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की सिफारिशों पर एतद्वारा, यह घोषणा करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खण्ड (ग) के उप-खण्ड (i) के उपबंध बैंक ऑफ बड़ौदा पर लागू नहीं होंगे, जहां तक इसका संबंध बैंक ऑफ बड़ौदा के प्रबंध निदेशक एवं मुख्य कार्यपालक अधिकारी श्री पी.एस. जयकुमार को इंडिया बैंक मलेशिया बेरहाड और मैसर्स इंडिया फर्स्ट लाइफ इंश्योरेंस कंपनी लिमिटेड के बोर्ड में निदेशक नामित करने से है।

[फा. सं. 13/22/2015-बीओ-1]

विजय मल्होत्रा, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 2nd February, 2016

S.O. 480.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendations of the Reserve Bank of India, hereby declare that the provisions of sub-clauses (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Bank of Baroda in so far as it relates to the nomination of Shri P.S. Jayakumar, Managing Director & Chief Executive Officer of the Bank of Baroda as director on the Boards of India Bank Malaysia Berhad and M/s. India First Life Insurance Company Limited.

[F.No. 13/22/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 3 फरवरी, 2016

का.आ. 481.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की सिफारिशों पर एतद्वारा, यह घोषणा करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खण्ड (ग) के उप-खण्ड (i) के उपबंध इलाहाबाद बैंक पर लागू नहीं होंगे, जहां तक इसका संबंध इलाहाबाद बैंक के अध्यक्ष एवं प्रबंध निदेशक श्री राकेश सेठी को भारतीय निर्यात ऋण गारंटी निगम लि. (ईसीजीसी लि.) के बोर्ड में गैर-कार्यपालक निदेशक नामित करने से है।

[फा. सं. 13/7/2014-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 3rd February, 2016

S.O. 481.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendations of the Reserve Bank of India, hereby declare that the provisions of sub-clauses (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Allahabad Bank in so far as it relates to the nomination of Shri Rakesh Sethi, CMD, Allahabad Bank as Non Official Director on the Board of Export Credit Guarantee Corporation of India Ltd. (ECGC Ltd.).

[F. No. 13/7/2014-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 4 मार्च, 2016

का.आ. 482.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 8 की उप-धारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, टाटा कंसलटेंसी सर्विसेज (टीसीएस) के मुख्य कार्यपालक अधिकारी एवं प्रबंध निदेशक श्री नटराजन चन्द्रशेखरन (जन्म तिथि : 02.06.1963) को उनकी नियुक्ति की अधिसूचना की तिथि से चार वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[फा. सं. 1/1/2015-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 4th March, 2016

S.O. 482.—In exercise of the powers conferred by clause (c) of the sub-section (1) of Section 8 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby nominates Shri Natarajan Chandrasekaran (DOB: 02.06.1963), Chief Executive Officer and Managing Director, Tata Consultancy Services (TCS) as Part Time Non Official Director on the Central Board of Reserve Bank of India for

a period of four years from the date of notification of his appointment, or until further orders, whichever is earlier.

[F. No. 1/1/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 4 मार्च, 2016

का.आ. 483.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 8 की उप-धारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, महिन्द्रा फाइनेंस के कार्यपालक अध्यक्ष श्री भरत नरोत्तम दोशी (जन्म तिथि : 12.06.1949) की उनकी नियुक्ति की अधिसूचना की तिथि से चार वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[फा. सं. 1/2/2015-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 4th March, 2016

S.O. 483.—In exercise of the powers conferred by clause (c) of the sub-section (1) of Section 8 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby nominates Shri Bharat Narotam Doshi (DOB: 12.06.1949), Non-Executive Chairman of Mahindra Finance as Part Time Non Official Director on the Central Board of Reserve Bank of India for a period of four years from the date of notification of his appointment, or until further orders, whichever is earlier.

[F. No. 1/2/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 4 मार्च, 2016

का.आ. 484.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 8 की उप-धारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री सुधीर मंकड़ (जन्म तिथि : 05.08.1947) की उनकी नियुक्ति की अधिसूचना की तिथि से चार वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[फा. सं. 1/3/2015-बीओ-1]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 4th March, 2016

S.O. 484.—In exercise of the powers conferred by clause (c) of the sub-section (1) of Section 8 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby nominates Shri Sudhir Mankad (DOB: 05.08.1947), as Part Time Non Official Director on the Central Board of

Reserve Bank of India for a period of four years from the date of notification of his appointment, or until further orders, whichever is earlier.

[F.No. 1/3/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 10 फरवरी, 2016

का.आ. 485.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के उच्चायोग, नैरोबी में श्री शिवम सिंह, सहायक अनुभाग अधिकारी और श्री समीर गोयल, सहायक अनुभाग अधिकारी को दिनांक 10 फरवरी, 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2015]

प्रकाश चन्द, उप सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 10th February, 2016

S.O. 485.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints (1) Shri Shivam Singh, Assistant Section Officer and (2) Shri Sameer Goyal, Assistant Section Officer as Assistant Consular Officer in the High Commission of India, Nairobi to perform the Consular services with effect from 10th February, 2016.

[No. T-4330/01/2015]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 1 मार्च, 2016

का.आ. 486.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के उच्चायोग, लिलोंगे में श्री एस.पी. रावत, सहायक अनुभाग अधिकारी को दिनांक 1 मार्च, 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2016]

प्रकाश चन्द, उप सचिव (कौंसुलर)

New Delhi, the 1st March, 2016

S.O. 486.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri S.P. Rawat, ASO as Assistant Consular Officer in the High Commission of India, Lilongwe to perform the Consular services with effect from 1st March, 2016.

[No. T-4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 3 मार्च, 2016

का.आ. 487.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, किंशासा में (1) श्री लिलांतु कुमार मंडल, निजी सहायक और (2) श्री फूलाराम स्वामी, वरिष्ठ सचिवालय सहायक को दिनांक 3 मार्च, 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/07/2016]

प्रकाश चन्द, उप सचिव (कौंसुलर)

New Delhi, the 3rd March, 2016

S.O. 487.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints (1) Shri Lilantu Kumar, Personal Assistant and (2) Shri Phoola Ram Swami, Senior Secretariat Assistant as Assistant Consular Officer in the Embassy of India, Kinshasa to perform the Consular services with effect from 3rd March, 2016.

[No. T-4330/07/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 14 मार्च, 2016

का.आ. 488.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में केंद्र सरकार श्री प्रवीन कुमार, सहायक अनुभाग अधिकारी को 14 मार्च, 2016 से भारत के भारतीय उच्चायोग, सूवा में सहायक कौंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2015]

प्रकाश चन्द, उप सचिव (कौंसुलर)

New Delhi, the 14th March, 2016

S.O. 488.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers

(Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri Parveen Kumar, Assistant Section Officer in the High Commission of India, Suva to perform the Consular services as Assistant Consular Officer with effect from 14th March, 2016.

[No. T-4330/01/2015]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 14 मार्च, 2016

का.आ. 489.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, बेइजिंग में (1) श्री जयंत कुमार पटनायक, सहायक अनुभाग अधिकारी और (2) श्री प्रकाश स्वरूप, सहायक अनुभाग अधिकारी को दिनांक 14 मार्च, 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2016]

प्रकाश चन्द, उप सचिव (कौंसुलर)

New Delhi, the 14th March, 2016

S.O. 489.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints (1) Shri Jayant Kumar Patnaik, Assistant Section Officer and (2) Shri Prakash Swaroop, Assistant Section Officer as Assistant Consular Officer in the Embassy of India, Beijing to perform the Consular services with effect from 14th March, 2016.

[No. T-4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 15 मार्च, 2016

का.आ. 490.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स थैराप्यूटिक्स केमिकल रिसर्च कॉर्पोरेशन, वार्ड नं. 8, प्लॉट नं. 17, दुर्गाचौक कालोनी मार्केट, पुलिस स्टेशन - दुर्गाचौक, जिला-मेदिनीपुर (पूर्व), हल्दिया-721602, पश्चिम बंगाल, को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना संख्यांक का.आ. 3975 तारीख 20 दिसम्बर, 1965 उपाबद्ध अनुसूची

में विनिर्दिष्ट खनिज और अयस्क (समूह-I), अर्थात् मैंगनीज डाईआक्साइड का अपवर्जन करते हुए लौह अयस्क और मैंगनीज अयस्क का निम्नलिखित शर्तों के अधीन रहते हुए, क्रमशः उक्त खनिज और अयस्कों का हल्दिया में, निर्यात पूर्व निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात् :—

- (i) मैसर्स थैराप्यूटिक्स केमिकल रिसर्च कॉर्पोरेशन, वार्ड नं. 8, प्लॉट नं. 17, दुर्गाचौक कालोनी मार्केट, पुलिस स्टेशन - दुर्गाचौक, जिला-मेदिनीपुर (पूर्व), हल्दिया-721602, पश्चिम बंगाल, खनिज और अयस्क (समूह-I) का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का कार्यान्वयन करने के लिए उनके द्वारा अपनाई गई निरीक्षण पद्धति की जांच करने के लिए इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नाम निर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) मैसर्स थैराप्यूटिक्स केमिकल रिसर्च कॉर्पोरेशन, वार्ड नं. 8, प्लॉट नं. 17, दुर्गाचौक कालोनी मार्केट, पुलिस स्टेशन - दुर्गाचौक, जिला-मेदिनीपुर (पूर्व), हल्दिया-721602, पश्चिम बंगाल, इस अधिसूचना के अधीन अपने कार्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित रूप में दिए गए निदेशों से आबद्ध होंगे।

[फा. सं. 04/02/2016-निर्यात निरीक्षण]

संतोष कुमार सारंगी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 15th March, 2016

S.O. 490.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Therapeutics Chemical Research Corporation, Ward No. 8, Plot No. 17, Durgachak Colony Market, Police Station Durgachak, District- Medinipur (East), Haldia-721 602, West Bengal, as an agency for a period of three years from the date of publication of this notification, for inspection of Minerals and Ores (Group-I), namely, Iron Ore and Manganese Ore excluding manganese dioxide specified in the Schedule annexed to the notification of the Government of India, Ministry of Commerce notification number S.O. 3975, dated the 20th December 1965, prior to export of the said Minerals and Ores at Haldia, subject to the following conditions, namely :—

- (i) that M/s. Therapeutics Chemical Research Corporation, Ward No. 8, Plot No. 17, Durgachak Colony Market, Police Station- Durgachak, District- Medinipur (East), Haldia -721 602, West Bengal, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine

the method of inspection followed by them in carrying out inspection under rule 4 of the Export of Minerals and Ores Group-I (Inspection) Rules, 1965; and

- (ii) that M/s Therapeutics Chemical Research Corporation, Ward No. 8, Plot No. 17, Durgachak Colony Market, PS - Durgachak, District- Medinipur (East), Haldia-721 602, West Bengal, in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 04/02/2016-Export Inspection]

SANTOSH KUMAR SARANGI, Jt. Secy.

नई दिल्ली, 15 मार्च, 2016

का.आ. 491.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स इन्सपेक्टोरेट ग्रिफ्थ इंडिया प्राइवेट लिमिटेड 23, राजाजी सलाई, चौथा तल, पी.टी.ली. चेंगलवारया नाइकर मालीगई, पैरीज, चेन्नई-600001, को इस अधिसूचना, के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना संख्यांक का.आ. 3975 तारीख 20 दिसम्बर, 1965 और संख्यांक का.आ. 3978 तारीख 20 दिसम्बर, 1965 से उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-I, अर्थात् लौह अयस्क और मैंगनीज अयस्क, खनिज और अयस्क समूह-II, अर्थात् मैंगनीज डाईआक्साइड, बैराइट्स और स्फटीय का निम्नलिखित शर्तों के अधीन रहते हुए, क्रमशः उक्त खनिज और अयस्कों का चेन्नई में, निर्यात पूर्व निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात् :—

- (i) मैसर्स इन्सपेक्टोरेट ग्रिफ्थ इंडिया प्राइवेट लिमिटेड 23, राजाजी सलाई, चौथा तल, पी.टी.ली. चेंगलवारया नाइकर मालीगई, पैरीज, चेन्नई-600001, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 और खनिज और अयस्क समूह-II निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का कार्यान्वयन करने के लिए उनके द्वारा अपनाई गई निरीक्षण पद्धति का जांच करने के लिए इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) मैसर्स इन्सपेक्टोरेट ग्रिफ्थ इंडिया प्राइवेट लिमिटेड 23, राजाजी सलाई, चौथा तल, पी.टी.ली. चेंगलवारया नाइकर मालीगई, पैरीज, चेन्नई-600001, इस अधिसूचना के अधीन अपने कृत्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में रूप में दिए गए निदेशों से आबद्ध होंगे।

[फा. सं. 4/8/2015-निर्यात निरीक्षण]

संतोष कुमार सारंगी, संयुक्त सचिव

New Delhi, the 15th March, 2016

S.O. 491.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s Inspectorate Griffith India Pvt. Ltd., 23, Rajaji Salai, 4th Floor, P.T Lee Chengalvarya Naicker Maaligai, Parryes, Chennai- 600001, as an agency for a period of three years from the date of publication of this notification, for inspection of Minerals and Ores Group- I, namely, Iron Ore and Manganese Ore and Group-II, namely, Manganese dioxide, Barytes and Feldspar, specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce *vide* number S.O. 3975, dated the 20th December 1965, and S.O 3978, dated the 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Chennai subject to the following conditions, namely:—

- (i) that M/s Inspectorate Griffith India Pvt. Ltd., 23, Rajaji Salai, 4th Floor, P.T Lee Chengalvarya Naicker Maaligai, Parryes, Chennai- 600001 shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965 and the Export of Minerals and Ores, Group-II (Inspection) Rules, 1965; and
- (ii) that M/s Inspectorate Griffith India Pvt. Ltd., 23, Rajaji Salai, 4th Floor, P.T Lee Chengalvarya Naicker Maaligai, Parryes, Chennai- 600001 in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 4/8/2015-Export Inspection]

SANTOSH KUMAR SARANGI, Jt. Secy.

नई दिल्ली, 15 मार्च, 2016

का.आ. 492.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, डोर नं. 8-45-9/2/1 बी, सी, विद्यानगर कालोनी, चौथी लेन, ओल्ड सीबीआई डाऊन के समीप विशाखापत्तनम-530003, को इस अधिसूचना, के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना संख्यांक का.आ. 3975 तारीख 20 दिसम्बर, 1965 और संख्यांक का.आ. 3978 तारीख 20 दिसम्बर, 1965 से उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज

और अयस्क (समूह-I), अर्थात् लौह अयस्क और मैंगनीज अयस्क, फेरोमैंगनीज और बॉक्साइट और समूह-II, क्रोम सहित केंद्रित क्रोम अयस्क का निम्नलिखित शर्तों के अधीन रहते हुए, क्रमशः उक्त खनिज और अयस्कों का विशाखापत्तनम और गंगावरम में, निर्यात पूर्व निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात् :—

- (i) मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, डोर नं. 8-45-9/2/1 बी, सी, विद्यानगर कालोनी, चौथी लेन, ओल्ड सीबीआई डाऊन के समीप विशाखापत्तनम-530003, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 और खनिज और अयस्क समूह-II निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का कार्यान्वयन करने के लिए उनके द्वारा अपनाई गई निरीक्षण पद्धति की जांच करने के लिए इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, डोर नं. 8-45-9/2/1 बी, सी, विद्यानगर कालोनी, चौथी लेन, ओल्ड सीबीआई डाऊन के समीप विशाखापत्तनम-530003, इस अधिसूचना के अधीन अपने कार्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में रूप में दिए गए निदेशों से आबद्ध होंगे।

[फा. सं. 4/1/2016-निर्यात निरीक्षण]

संतोष कुमार सारंगी, संयुक्त सचिव

New Delhi, the 15th March, 2016

S.O. 492.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Mitra S.K. Pvt Ltd., Door No. 8-45-9/2/1 B,C, Vidyanagar Colony, 4th Lane, Near Old CBI Down, Visakhapatnam-530 003, as an agency for a period of three years from the date of publication of this notification, for inspection of Minerals and Ores (Group- I), namely, Iron ore, manganese ore, Ferro Manganese and Bauxite and Group II Chrome Ore including Chrome concentrates, specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce vide number S.O. 3975, dated the 20th December 1965 and S.O 3978, dated the 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Vishakhapatnam and Gangavaram subject to the following conditions, namely: -

- (i) that M/s Mitra S.K. Pvt. Ltd., Door No. 8-45-9/2/1 B,C, Vidyanagar Colony, 4th Lane, Near Old CBI Down, Visakhapatnam-530 003, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of

Minerals and Ores, Group-I (Inspection) Rules, 1965 and the Export of Minerals and Ores, Group-II (Inspection) Rules, 1965; and

- (ii) that M/s Mitra S.K Pvt. Ltd., Door No. 8-45-9/2/1 B,C, Vidyanagar Colony, 4th Lane, Near Old CBI Down, Visakhapatnam-530 003, in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 4/1/2016-Export Inspection]

SANTOSH KUMAR SARANGI, Jt. Secy.

नागर विमानन मंत्रालय

नई दिल्ली, 11 मार्च, 2016

का.आ. 493.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, नागर विमानन मंत्रालय के संबद्ध कार्यालय नागर विमानन महानिदेशालय के क्षेत्रीय कार्यालय उप निदेशक, उड़नयोग्यता का कार्यालय, लखनऊ को एतद्द्वारा अधिसूचित करती है क्योंकि उनके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है।

[सं. ई.-11014/9/2015-रा.भा.]

अनिल श्रीवास्तव, संयुक्त सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 11th March, 2016

S.O. 493.—In pursuance of sub-rules (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government, hereby notifies the Directorate General of Civil Aviation O/o Deputy Director, Airworthiness Civil Aviation Department Lucknow an attached of Ministry of Civil Aviation, whereof, more than 80% staff have acquired the working knowledge of Hindi.

[No. E-11014/9/2015-OL]

ANIL SRIVASTVA, Jt. Secy.

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

(राजभाषा यूनिट)

नई दिल्ली, 14 मार्च, 2016

का.आ. 494.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4)

के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत नवोदय विद्यालय समिति, नोएडा के अंतर्गत जवाहर नवोदय विद्यालय गांव-शरफाबाद, पोस्ट-फुलेरा, जिला-बागपत, उ.प्र. पिन : 201101 को, ऐसे कार्यालय के रूप में, जिसके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं. 11011-2/2015-रा.भा.ए.]

सुखबीर सिंह संधू, संयुक्त सचिव

**MINISTRY OF HUMAN RESOURCE
DEVELOPMENT**

(Department of Higher Education)

(O.L. UNIT)

New Delhi, the 14th March, 2016

S.O. 494.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government, hereby notify the Jawahar Navodaya Vidyalaya Vill.-Sharfabad, Post-Phulera, Distt. Baghpat (U.P.) Pin-201101 of Navodaya Vidyalaya Samiti, Noida under the Ministry of Human Resource Development (Department of School Education and Literacy) as an office, whose more than 80% members of the staff have acquired the working knowledge of Hindi.

[No. 11011-2/2015-OLU]

SUKHBIR SINGH SANDHU, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 7 मार्च, 2016

का.आ. 495.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 91/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 7th March, 2016

S.O. 495.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 91/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure

in the Industrial Dispute between the employers in relation to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II, DELHI**

Present :- Shri Harbansh Kumar Saxena

ID No. 91/14

Sh. Hare Ram S/o Shri Hardev Ram,
R/o A-22, Mohan. Co. Opt Industrial Estate,
Near Metro Station J.J. Colony,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi 110001.

2. M/s BVG India Ltd.
106, Mercantile House, Ist Floor,
15, K.G. Marg,
New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 91/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 3.07.2015. Through which workman /claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent No. 2.

MW1 Sh. Umesh Chand Sharma confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 496.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीबीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 92/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 496.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 92/14) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 92/14

Sh. Ramkrit S/o Shri Mishri Lal,
R/o A-1/346,
J.J. Colony,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.
2. M/s BVG India Ltd.
106, Mercantile House, Ist Floor,
15 K.G Marg,

New Delhi-110001

(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 92/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 3.07.2015. Through which workman/claimant reaffirmed the contents of claim statement along with prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent No. 2.

MW1 Sh. Umesh Chand Sharma confirmed settlement of Rs. 22000/- through cheque and Rs. 3000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 497.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीबीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 93/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 497.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 93/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 93/14

Sh. Kamlesh Yadav S/o Shri Shiv Narayan,
R/o A-2/343,
J.J. Colony,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,
New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 93/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 3.07.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

WW1 Sh. Kamlesh Yadav confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 498.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 94/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 498.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 94/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 94/14

Sh. Sanjay Kumar S/o Shri Ram Jiyawan,
R/o 641,
J.J. Colony,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,

New Delhi-110001

(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 94/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 3.07.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

WW1 Sh. Sanjay Kumar confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 499.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 95/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 499.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 95/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI**

Present :- Shri Harbansh Kumar Saxena

ID No. 95/14

Sh. Chandra Pal S/o Shri Budhi Ram,
R/o A-1/344,
J.J. Colony,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi 110001.

2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,
New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 95/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 02.06.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

MW1 Sh. Umesh Chand Sharma confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 500.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीबीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 96/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 500.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 96/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 96/14

Sh. Puran S/o Shri Nand Kishor,
R/o D-390,
J.J. Colony,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.
2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,

New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.012.2014. Which was registered as I.D. No. 96/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 02.06.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

MW1 Sh. Umesh Chand Sharma confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 501.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीबीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 97/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 501.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 97/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 97/14

Sh. Dev Kumar,
R/o 637,
Sanjay Colony,
Okhla Phase-II,
New Delhi-110020

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.
2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,
New Delhi-110001
(Contractor) ...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 97/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 02.06.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

MW1 confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 502.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 98/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 502.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 98/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 98/14

Sh. Anjulas S/o Shri Maulush,
R/o 105, Jasola Village,
Jamia Nagar,
Sarita Vihar,
New Delhi-110076

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.
2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,

15 K.G Marg,
New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 98/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 22.05.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

MW1 Sh. Anjulas confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 503.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 99/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 503.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 99/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 99/14

Sh. Jagpal Singh S/o Shri Sonpal,
R/o A-70, Harkesh Nagar,
Okhla Phase-II,
New Delhi-110020

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,
New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 99/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 22.05.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

MW1 Sh. Umesh Chand Sharma confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 504.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीबीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 101/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 504.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 101/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 101/14

Sh. Toofani S/o Shri Ram Tapeswar,
R/o 728, J.J. Colony,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.
2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,

New Delhi-110001

(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 101/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 22.05.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

MW1 Sh. Umesh Chand Sharma confirmed settlement of Rs. 22000/- through cheque and Rs. 3000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 505.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीबीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 102/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 505.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 102/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 102/14

Sh. Akhilesh Kamat S/o Shri Badri Kamat,
R/o G-142, Harkesh Nagar,
Okhla Phase-II,
New Delhi-110020

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,
New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 102/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 03.07.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

MW1 Sh. Umesh Chand Sharma confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 506.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 103/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 506.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 103/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 103/14

Sh. Ganesh Chand,
R/o D-306, Indira Kalyan Vihar,
Okhla Phase-I,
New Delhi-110020

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,

New Delhi-110001

(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 103/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 03.07.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

MW1 Sh. Umesh Chand Sharma confirmed settlement of Rs. 22000/- through cheque and Rs. 3000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 507.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 104/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 507.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 104/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II, DELHI**

Present :- Shri Harbansh Kumar Saxena

ID No. 104/14

Sh. Deepak S/o Shri Kishan Pal,
R/o A-1/346,
J.J. Colony,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

2. M/s BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,
New Delhi-110001

(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 104/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 03.07.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

WW1 Sh. Deepak Kumar confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 508.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 105/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 508.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 105/14) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present :- Shri Harbansh Kumar Saxena

ID No. 105/14

Sh. Gopal S/o Shri Radha Kant,
R/o 446, Phase-II,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s. Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

2. M/s. BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,
New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s 2-A of I.D. Act on 2.12.2014. Which was registered as I.D. No. 105/2014 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have been filed through which they denied the allegation of the claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 03.07.2015. Through which workman/claimant reaffirmed the contents of claim statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their dispute through settlement and settlement report has been filed by respondent no. 2.

WW1 Sh. Gopal confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 509.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 28/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 509.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 28/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Metro Rail Corporation/ BVG India Ltd. and their workmen, which was received by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL- CUM-LABOUR COURT-II, DELHI****Present :-** Shri Harbansh Kumar Saxena**ID No. 28/15**

Sh. Avedesh Kumar S/o Shri Chandrika Prasad,
R/o 1791, J.J. Colony, Phase-III,
Madanpur Khadar,
New Delhi-110076

...Workman

VERSUS

1. M/s. Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

2. M/s. BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,
New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s
2-A of I.D. Act on 4.03.2014. Which was registered as I.D.
No. 28/2015 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.
2. Rs. 25000/- as expenses of the case.
3. Any other relief which court deems fit to be granted to workman.

Written statement on behalf of respondents have
been filed through which they denied the allegation of the
claim statement and prayed for dismissal of claim statement.

Workman filed rejoinder on 22.05.2015. Through
which workman/claimant reaffirmed the contents of claim
statement alongwith prayer of the claim statement.

At the stage of framing of issues parties settled their
dispute through settlement and settlement report has been
filed by respondent No. 2.

WW1 Sh. Avedesh Kumar confirmed settlement of
Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly
passed. It be sent to the appropriate Government for
publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 7 मार्च, 2016

का.आ. 510.—औद्योगिक विवाद अधिनियम, 1947 (1947
का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली मेट्रो रेल
कारपोरेशन/बीवीजी इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों
और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में
केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली
के पंचाट (संदर्भ सं. 105/2015) को प्रकाशित करती है, जो केन्द्रीय
सरकार को 07/03/2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2016-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th March, 2016

S.O. 510.—In pursuance of Section 17 of the
Industrial Disputes Act, 1947 (14 of 1947), the Central
Government hereby publishes the Award (I.D. No. 105/
2015) of the Central Government Industrial Tribunal-cum-
Labour Court No. 2, Delhi now as shown in the Annexure
in the Industrial Dispute between the employers in relation
to the management of the Delhi Metro Rail Corporation/
BVG India Ltd. and their workmen, which was received
by the Central Government on 07/03/2016.

[No. L-42025/03/2016-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL- CUM-LABOUR COURT-II, DELHI****Present :-** Shri Harbansh Kumar Saxena**ID No. 105/2015**

Sh. Mahesh S/o of Sh. Kuwar Singh,
R/o 81, Jasola Village,
Jamia Nagar, Sarita Vihar,
New Delhi-110076

...Workman

VERSUS

1. M/s. Delhi Metro Rail Corporation
(Principal Employer),
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001.

2. M/s. BVG India Ltd. 106,
Mercantile House, Ist Floor,
15 K.G Marg,
New Delhi-110001
(Contractor)

...Respondent/Management

AWARD

The claimant/workman filed his claim statement u/s
2-A of I.D. Act on 7.7.2015. Which was registered as I.D.
No. 105/2015 and notice were issued to respondents.

Through which he sought following relief:-

1. Reinstatement alongwith full back wages.

2. Rs. 25000/- as expenses of the case.

3. Any other relief which court deems fit to be granted to workman.

At the stage of filing of written statement parties settled their dispute through settlement and settlement report has been filed by respondent No. 2.

MW1 confirmed settlement of Rs. 9000/- through cheque and Rs. 2000/- as cash.

So claim stands satisfied. An award is accordingly passed. It be sent to the appropriate Government for publication.

Dated : 24.02.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 9 मार्च, 2016

का.आ. 511.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ सं. 192/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/03/2016 को प्राप्त हुआ था।

[सं. एल-22012/42/2006-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2016

S.O. 511.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 192/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 09/03/2016.

[No. L-22012/42/2006-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO.1, DELHI**

ID No. 192/2011

The General Secretary,
Food Corporation of India Shramik Sangh,
Quarter No.147, Type III, Sector I,

BHEL, Haridwar,
Uttaranchal

...Workmen

Versus

The Regional Manager,
Food Corporation of India,
98 Nashvillia Road,
Dehradun

...Management

AWARD

Brief facts giving rise to the reference are that a letter No. L-22012/42/2006-IR(CM-II) dated 08.06.2006 was received from Ministry of Labour with the following reference:

“Whether the demand of Food Corporation of India Shramik Sangh Uttaranchal is just and legal to declare that the workers Shri Rajbir Singh, S/o Shri Hodil Singh and 199 others were employed at Food Corporation of India Depot, Jwalapur since 1996-97 continuously and were also engaged by the management of FCI Jwalapur under Direct Payment System during the period 10.07.2003 to 28.10.2004 and thereafter their discontinuance/termination from service by the management of FCI in violation of section 25(O) of the ID Act, 1947 is illegal and unjustified? If so, to what relief the concerned workman are entitled to?”

2. Both the parties were put to notice and claimant union averred that earlier also petitions have been filed by the applicant union claiming themselves to be workers of respondent No.1 to 5 and various interim orders were passed by the Hon'ble High Court. In fact some of the unions/workers misrepresented and concealed facts and obtained interim orders from the High Court and misused such orders in connivance with respondent No.4, as a result of which genuine workers were deprived of work in spite of the fact that orders were in their favour. But respondent No.4. for its personal gains, did not allow the said workers work and created grave troubles for them.

3. By means of petition No.57 MB/04, workers herein have challenged the tender order dated 28.12.2003 published in Amar Ujala newspaper by which respondent No.3 and 4 invited tenders for work of handling and transportation from the contractors who possessed license under the Contract Labour (R&A) Act, 1970 or who are willing to get themselves registered within 30 days of appointment in the case of handling and transport contractor for transportation of sugar, fertilizers etc. The aforesaid tender notice was issued with an aim to deprive the workers herein from working under direct payment system as ordered by the Hon'ble High Court, Lucknow in writ petition No.2379 (S/S) of 1999 and order passed in writ petition No. 948(S/S) of 2003 alongwith writ petition No.4243 of 2001 and Writ Petition No.4793 of 2001 by which the Hon'ble High Court of Uttarakhand at Nainital has passed

orders in favour of the petitioners to the effect that if the work and post is available, the petitioners are allowed to get their salary according to law. Now, respondent Nos.1 to 5 are trying to appoint contractors just to frustrate the claim of the workers by showing themselves to be employees of the contract or to sack the union members from work under the garb of newly introduced contract system. This order of the management is illegal and not to be acted upon.

4. Before creation of the state of Uttaranchal, the applicant union members were members of FCI Mazdoor Sangh and after creation of the state of Uttaranchal, FCI Mazdoor Sangh has ceased to have jurisdiction in Uttaranchal because as per constitution of the aforesaid union, it has jurisdiction only in Uttar Pradesh. Hence, applicant union was constituted and registered. It is also averred that in the earlier writ petition bearing No.4243 of 1999 and No.2370 of 2001 filed before the Hon'ble High Court by the previous union but the General Secretary of the said union played a fraud and changed the paternity and name of some workers and obtained interim orders. It is useful to mention here that the applicant union and its members were working since 1966 and their names also figure in the above petition. Subsequently, union of the workers herein filed writ petition No.948/2005 before High Court and interim order was passed in favour of the union. Pursuant to the interim order, employees have taken work directly with effect from 10.07.2003 to 28.10.2004. It is specifically averred that one Shri Dhir Singh who is claiming himself to be General Secretary of Bhartiya Khadya Nigam Mazdoor Sangh has filed writ petition no.4793 of 2001 on the basis of false documents whereas it is admitted fact that Shri Dhir Singh himself joined as contractor on 18.03.1977. Thereafter, Hon'ble High Court passed order dated 18.09.2003 and directed the respondent FCI to prepare a seniority list of the workers of Jwalapur Depot and in compliance of the said order, FCI issued order dated 27/28.10.2003 and directed the contesting the parties to inspect the seniority list. However, no copy was given to the union.

5. Union of the workers herein has filed an objection on 06.11.2003 and raised an industrial dispute before the Assistant Labour Commissioner and during pendency of the dispute, FCI tried to disengage members of the union and tried to engage some contractor for the said work. The applicant union has filed a complaint under section 33A of the Industrial Disputes Act, 1947(in short the Act) and the ALC, thereafter, issued notice to FCI. In view of pendency of the matter before the High Court, said proceedings were kept in abeyance. However, management in the meanwhile invited tender for appointment of contractor to carry out the work at Jwalapur just for altering service conditions of the members of the applicant union. The applicant union has challenged the same in writ petition No.57 M/B. of 2004 and the court has passed interim order in favour of

the union and directed the management not to give effect to the tender notice. Respondent, in order to circumvent order of the High Court closed operation of the godown at Jwalapur so as to deprive the applicant union and its members to get the benefit of order of High Court.

6. There are averments that Jwalapur godown comes under the definition of 'factory' and being an industrial establishment as more than 1 lakh workers are engaged in various depots and even in Jwalapur Depot, more than 200 workers are employed. Nature of the work in Jwalapur is adaptation and the articles are altered in the depot and as such comes in the definition of factory. Thus, without adopting procedure prescribed under section 25(O) of the Act, closure is not permissible and thus de-hiring of Jawalapur depot amounts to closure, which is totally illegal. It is further alleged that contract system is a sham show and a camouflage. In fact, members of the applicant union has worked directly under the control of FCI but their payment is illegally stored by FCI with effect from 10.07.2003 to 28.10.2004. Due to illegal change in service conditions by violation of section 9(a) during pendency of dispute without prior approval of ALC is illegal, bad and void ab initio. Labour Enforcement Officer, Dehradun has also verified membership of the applicant union. Stoppage of the work amounts to illegal retrenchment and violation of section 25(N) and (M) of the Act. . Hence, members of the Union, i.e. workers are entitled to full back wages till date.

7. Respondent management has demurred claim of the applicant union by filing written statement where it is alleged that there is no merit or substance in the statement of claim filed by the claimant. Claim has been filed with malafide intention. Statement of claim is liable to be dismissed for mis-joinder of parties. In para 4 of the reply, it is alleged that service of the labourers were hired by the Corporation/FCI through an agency on contract basis as per provision of Contract Labour Act, 1970. On merits, it is alleged that Shri Rajbir Singh and 199 others employees were engaged through a contractor and work and work of FCI is contract labour. Therefore there is no question of termination of their services by the Corporation/FCI as their services were hired through an agency on contract basis as per provisions of Contract Labour Act, 1970. Management has also denied other allegations contained in the statement of claim and submitted that FCI invited tender under HTC provision and admitted filing of various writ petitions before he Hon'ble High Court. Thus, management has come with a specific stand that Shri Rajbir Singh and 199 other workers were engaged through contractor and work with the Corporation /FCI is contract labour. Therefore, there is no question arises for any termination from service of the Corporation/FCI as well as violation of any provisions of Industrial Law.

8. The applicant union filed rejoinder wherein material averments contained in reply of the management have been

denied and stand taken in the claim statement has been reasserted.

9. In fact, reference in the present case was made to CGIT-cum-Labour Court No.2 by the union government. Later on, this case was transferred by the order of the appropriate Government to CGIT-cum-Labour Court No.1 for disposal in accordance with law. It transpires from the records that on the basis of pleadings of the parties, no issue, other than those referred by the appropriate Government for adjudication, was framed by this Tribunal.

10. It is pertinent to mention here that earlier CWP No.57 of 2004, WPSS No.4243 of 2001, WP No.1981 of 2003, WP No.2467 of 2001 (SS), WP No.267 of 2004 and WP No.4793 of 2001 as well as WP No.5539 of 2001 were filed by the workmen through their union against Food Corporation and Others, which was decided by a common order dated 02.08.2004 whereby Food Corporation of India was directed to allow the petitioners to permit them to continue to work, if the work is available at Jwalapur Depot. It was further directed that Food Corporation of India shall prepare seniority list of daily wagers and in case of shortage of work, the same shall be assigned to the workers according to their seniority and in case regular vacancies are available, it shall be filled up by the workers already working with the respondents on seniority cum merit basis, excluding the unfits. This judgement of the Single Judge was challenged by way of special appeal no.111/2004 by Food Corporation of India and others and the same was decided vide judgement dated 14.09.2005, wherein it was held as under:

31. In view of the discussion aforesaid, we are convinced that there can be conciliation in the matters under dispute with regard to the points raised herein. The writ petitioners, therefore, may move the Industrial Adjudicator under the provisions of the Industrial Disputes Act, 1947. The petitioners are given 15 days' time to approach the Assistant Labour Commissioner(Central) for conciliation and thereafter the Assistant Labour Commissioner shall conclude the conciliation proceedings within one month. If conciliation fails, he shall report the matter to the Appropriate Government, which shall make a reference to the Labour Court within a period of one month. The Labour Court concerned shall then decide the dispute, according to law, within a period of three months.

32. In the meantime, in order to avoid multiplicity of parties, causes of action and proceedings and in the ends of justice, we deem it appropriate to direct that if depot at Jwalapur is operated, the appellant FCI shall take the work from those included in the seniority-list provisionally prepared and referred in their letter dated 27/28.10.2003(Annexure 3 of WP No.1981 of 2003). It is made clear that any incidental expression of opinion in this judgement with regard

to the merit of the case shall have no bearing and the case of the parties shall be decided by the industrial adjudicator according to law applicable thereto. The order dated 02.08.2004 passed by Single Judge, and under appeal, is set aside and all the writ petitions are disposed of in above terms.

The Special Appeals also stand decided accordingly.

11. Since the matter could not be resolved within a month before the Assistant Labour Commissioner, as such, the appropriate Government referred the matter in the manner stated above under Section 10 of the ID Act, for adjudication.

12. During pendency of the reference petition claimants moved an application for production of documents, which was granted by this Tribunal on 24.09.2012. The management wanted to put that order at naught, claiming that it is not in a position to comply that order. Under these circumstances, this Tribunal exercised powers contained in rule 23 of the Rules. Resultantly, Ms.Shipra Shukla, Advocate, who was present before the Tribunal, was appointed as Commissioner, authorizing her in writing, to enter the premises at 'FCI Godown Jwalapur, near Ashoka Talkies, Jwalapur, Haridwar', as well as premises at '3/3 Ganesh Bazar, near Ram Lila Ground, Shrinagar, Garhwal', where Godown and office are being run or were being run, as the case may be, after service of notice in that regard on the management and inspect the premises as well as record lying therein, besides interrogating any person found therein in respect of attendance and wage register of employees at Jwalapur Depot from 1996 to 2002, attendance and wage register relating to work taken by the management from the workers with effect from 10.07.2003 to 28.10.2004 reflecting details of payment made by the management to its workers at Jwalapur Depot as well as report relating to relinquishment of charge by Shri Tomar, Depot Incharge, Jwalapur Depot and to seize any record relating to above documents and proposition of work done by the claimants in the period referred above and submit her report before this Tribunal. She carried out inspection of the aforesaid Godowns at Haridwar on 27.12.2012 and Ganesh Bazar on 28.12.2012 and filed her report on 16.01.2013, Ex.WW3/1. Report of the Local Commissioner is very detailed and she has also taken into possession during the course of inspection, documents, Ex.WW3/2 to Ex.WW3/357, including photograph of the godown. Objections were also filed by the management to the report of the Local Commissioner by the Management though they were not invited by this Tribunal. Careful perusal of the report of the Local Commissioner would show that officials of the management, Shri Uday Singh Rawat and Shri Darbara Singh were present when inspection was conducted in a thorough manner by the Local Commissioner. I would be discussing the report of the Local Commissioner in the subsequent paras while drawing my conclusions.

13. It is pertinent to note here that no specific issues were framed in the case in hand by my learned predecessors before recording of evidence. However, it is clear from perusal of the reference made by the Central Government under Section 10 that there are two important components of the above reference and the same are as under:

‘Whether Shri Rajbir Singh and 199 others were employed at Food Corporation of India at its Jwalapur Depot since 1996-97 engaged by the management of FCI Jwalapur under Direct Payment System during the period 10.07.2003 to 28.10.2004,

and

Whether thereafter their discontinuance/termination from service by the management of FCI in violation of section 25(O) of the ID Act, 1947 is illegal and unjustified?

14. Workmen in order to prove their case against the management examined Shri Rajbir Singh as WW1 and Shri Saroj Singh as WW2. Later on Ms. Shipra Shukla was examined by the workmen as WW3, whose report is Ex.WW3/1. It is clear from perusal of statement of Shri Rajbir Singh in his affidavit Ex.WW1/A, that the same is on similar lines as the averments contained in the statement of claim. He has been cross examined but there is nothing material in the cross examination of this witness. Sum and substance of the statement of this witness is to the effect that all the workmen were directly engaged by FCI since 1996-97 and they have not been paid wages under the direct payment system for the period 10.07.2003 to 28.10.2004.

15. To the same effect is the statement of Shri Saroj Singh, WW2, who has deposed that they were doing work of loading and unloading at Jwalapur Depot. This witness has tendered in evidence certificate of registration Ex.WW2/1 which shows that the FCI Shramik Sangh Uttaranchal Pradesh is duly registered under the Trade Union Act. He has also tendered in evidence various letters written by the officials of FCI to the Senior Regional Manager as well as Shri Rajbir Singh regarding engagement of the workmen in view of the orders passed by Hon’ble High Court. There is also list of workmen Ex.WW2/5 which contains names of the 200 workers. There is copy of ID of WW2 Shri Saroj Singh, which is Ex.WW2/M1.

16. Management in order to rebut the case of the workman union examined Shri Uday Singh Rawat, Manager(Law), FCI Srinagar as MW1. This witness, in his affidavit, Ex.MW1/A, has tried to reiterate the stand taken by the management in its reply. In para 7 of the said affidavit, it is averred that though the claimants worked with FCI management, but they were neither appointed by FCI management nor they were on the pay roll of FCI. He has admitted in his cross examination that Shri Aditya Mani Sharma was District Manager and he has identified his

signatures on document Ex.WW1/3. He further admitted that Shri R.C. Panwar was the Depot Manager at Jwalapur Depot. However, he was not in a position to identify his signatures. He has further admitted document Ex.WW2/2 is available in the official record.

17. Shri M.C. Pant, appearing on behalf of the workmen strongly urged that the workmen in the case in hand were employed as daily wagers since 1996-97 and they have been regularly performing their duties directly under the management of FCI. They have never worked under any contractor nor has FCI in its reply disclosed name of any contractor. No wages were paid to the workmen herein by the contractor. The learned A/R for the claimant invited attention of the Tribunal to the report of Ms.Shipra Shukla, Ex.WW3/1 as well as documents filed by the said Local Commissioner alongwith her report so as to show that the documents taken from possession of the depot at Jwalapur shows that stocks were being maintained at the Jwalapur Depot by the officials and the workmen herein were working regularly at the said Depot.

18. Secondly, it was urged that no evidence has been led by the management so as to prove that during the period 10.07.2003 to 28.10.2004 any payment of wages was made to the workmen herein and others directly by the management or through any contractor. The learned authorized representative proceeded to argue that whenever payment of wages is made, signatures of the concerned daily wager is obtained on the salary slip/registers etc., which always remained in possession of the management and the management has intentionally withheld all these documents so as to deny the relationship of employer and employee between the parties. Learned authorized representative invited attention of the court to the reply filed by the management, which is alleged to be very evasive in nature. There is no specific denial by the FCI to the fact that as to what payment of wages for the above period was either made by the management or their contractor. In the entire reply, name of the contractor is also not mentioned. It is also urged that in para 7 of the affidavit filed by MW1, there is admission that the workmen herein were working with the management of FCI, which is also suggestive of the fact that the workmen were working under FCI and they were not working under the contractors.

19. Lastly, learned authorized urged that no contractor was examined in the present case. Even if any contract was given by the management to any contractor regarding engagement of above workmen, same will not put an to the relationship of employer and employee between the parties. Such an agreement in the contention of the learned authorized representative is purely sham, nominal and camouflage inasmuch as the workmen were directly under supervision of the officials of FCI. FCI were exercising supervisory control over them and the workmen were doing the work on the directions of the principal employer. In

relation to nature and quantum of work, it was also submitted that the depot at Jwalapur falls within the definition of 'industry' and that the workmen had worked for more than 240 days in a calendar year, as such their services should not have been terminated or dispensed with, without service of one months' notice or salary in lieu thereof by the management. Learned authorized representative also invited attention of the court to provisions of section 7 onwards of the Contract Labour Act, 1970 and urged that there is gross violation of the various provisions by the FCI who are not registered under section 7 of the said Act nor any evidence has been led by the management whether the so called contractor was duly authorized, as required under various provisions of the said Act. Learned authorized representative has relied upon a number of authorities and I would be discussing the same while drawing my conclusions.

20. Per contra, Shri Anil Sharma,, appearing on behalf of the management urged that there was no direct relationship of employer and employee between the management and the workmen herein. As such, the workmen cannot be stated to be in the employment of FCI. Services of the workmen were hired by FCI through an agency on contract basis as per provisions Contract Labour Abolition Act, 1970 and after expiry of the said contract, services of the workmen stood terminated automatically. Learned authorized representative made reference to para 10 of his written statement wherein it has been alleged in specific terms that Shri Rajbir Singh and other workers were engaged through contractor and were with the Corporation/FCI as contract labour. Therefore, there is no question of termination of service nor there is violation of any industrial law. Learned authorized representative put heavy reliance on Steel Authority of India Vs. National Water Front Workers [2001 (7) SCC 1] wherein Hon'ble Apex Court has dealt at length with the question as to whether a workman would be an employee of the contractor or that of the principal employer when they have been engaged by the principal employer through contract labour.

21. It is pertinent to mention here that during the course of arguments, the learned authorized representatives for both the parties have heavily relied upon the ratio of Steel Authority of India Ltd.(supra). A critical appraisal of the aforesaid authority would show that Constitution Bench of five Judges of the Hon'ble Apex Court primarily dealt with the meaning of the expression 'appropriate Government' as used in Section 2(a) of the ID Act in relation to an establishment defined under Section 2(E) of the CLRA Act. After discussing the various rulings on the subject, it was held that in the case of Central Government Company/undertaking, an instrumentality of the Government carrying on an industry, the criteria to determine whether the Central Government is the appropriate Government within the meaning of CLRA Act, is that industry must be carried on by or under the authority of Central Government.

22. The other question involved in the said case was whether notification issued under Section 10(1) of the CLRA Act prohibiting employment of contract labour in any process, operation or other work in any establishment without fulfilling conditions contained in the said sub-section (1) and (2) of Section 10 of the CLRA Act can still said to be valid. It is further clear from the above ruling that notification issued by the Central Government under Section 10 of the CLRA Act was quashed being in violation of Section 10 of the Act.

23. One of questions of primary importance which was dealt at length by the Hon'ble Apex Court and which is relevant in the context of the controversy in hand was regarding engagement of contract labour by the appropriate Government (Central or State Government) when prohibition notification has been issued under section 10(1) of the CLRA Act. Hon'ble Supreme Court also dealt with the question that when there is no such notification issued under Section 10 of the CLRA Act and the workmen are alleged to be engaged through contractor by the principal employer. Vital question which then arose was whether the said workmen can be said to be primarily in the employment of the principal employer or they will be workmen of the contractor. After examining the entire spectrum of the case law on the subject and considering the contentions raised on behalf of either of the parties, in para 105, it was observed as under:

An analysis of the cases, discussed above, shows that they fall in three classes;

- (i) where contract labour is engaged in or in connection with the work of an establishment and employment of contract labour is prohibited either because the Industrial adjudicator/Court ordered abolition of contract labour or because the appropriate Government issued notification under Section 10(1) of the CLRA Act, no automatic absorption of the contract labour working in the establishment was ordered;
- (ii) where the contract was found to be sham and nominal rather a camouflage in which case the contract labour working in the establishment of the principal employer was held, in fact and in reality, the employees of the principal employer himself. Indeed, such cases do not relate to abolition of contract labour but present instances wherein the Court pierced the veil and declared the correct position as a fact at the stage after employment of contract labour stood prohibited;
- (iii) where in discharge of a statutory obligation of maintaining canteen in an establishment the principal employer availed the services of a contractor and the courts have held that the

contract labour would indeed be the employees of the principal employer.

106 : The controversy herein falls in clause (ii) whether a contractor engaging contract labour in connection with the work entrusted to him by a principal employer, the relationship of master and servant between him (the principal employer) and the contract labour emerges.

24. It is clear in the case in hand that there is no notification issued under Section 10 of the CLRA Act, as such case of workmen, in the contention of the learned authorized representative falls under clause (ii) in as much as contract in the present case is alleged to be sham, nominal and rather a camouflage. Resultantly, contract labor working in the establishment of Jwalapur Depot, in the contention of the A/R shall be deemed to be directly in the employment of the principal employer, i.e. FCI.

25. Whereas Shri Anil Sharma, A/R for the management has relied upon the observations made in para 71 of the above ruling wherein the Apex Court has noticed that the term contractor is defined in relation to an establishment to mean a person who undertakes to produce a given result for the establishment through contract labour or supplies contract labour for any work of the establishment and includes sub-contractor but excludes a supplier of goods or articles of manufacture to such establishment.

26. Admittedly in the case in hand, there is nothing on record to suggest as to who was the contractor to whom the work for loading and unloading of articles belonging to FCI was given. Name of such a contractor is not mentioned in the written statement or reply filed by the management, particularly para 4 as well as para 14 of the reply is very evasive in nature. If entire reply and contention of the management is taken to logical conclusion, it would simply mean that the handling work was given to some contractor who has employed workmen at the depot from time to time. If that was the case, it was incumbent upon the management to have specifically mentioned the name of the contractor who was doing the requisite work by employing labour, particularly during the period 1996-97 and the period in question 10.07.2003 to August 2014. It is well settled principle in law that if a particular averment contained in the pleading is not denied specifically by the opposite party, then facts contained in the pleading shall be deemed to have been admitted. Moreover, in the case in hand, even during the course of evidence when the management examined Shri Uday Singh Rawat as MW1, he has also not referred to any specific contractor who was given work of handling of foodgrains at Jwalapur Depot. Under the CLRA Act, there are several conditions which are to be fulfilled by the contractor before the work is awarded to him. It is regard, it is appropriate to refer to the provision of Section 7, which requires that registration of the establishment in the prescribed manner so that necessary work could be

allotted to the contract labour through the contractor. It is not out of place to mention that contravention of Section 7 of the CLRA Act is an offence under the Act and in case any violation is made after issuance of the licence, the same can be revoked under Section 8 of the Act. Section 9 of the said Act deals with fact of non-registration of establishment employing contract labour and it very clearly provides that in case such an establishment is not registered, in that eventuality, the principal employer cannot employ contract labour in the establishment. As discussed above, Section 10 deals with the prohibition of employment of contract labour and before notification is issued under Section 10 of the conditions stipulated therein is to be fulfilled as has been held in Steel Authority of India (supra) relied upon by both the parties.

27. It is also necessary to mention that Section 21 of the CLRA Act provides that contractor shall be responsible for payment of wages to each worker employed by him as contract labour and such wages shall be paid regularly. Even the principal employer is required to nominate a representative to be present at the time of disbursement of wages by the contractor. Clause (iii) of Section 21 further requires that contractor has to ensure payment of wages in the presence of an authorized representative of the principal employer. There is no merit in the contention of the management that wages in question for the period from 10.07.2003 to August 2014 were paid through contractor to the workmen herein, inasmuch as management has not produced any salary slipss, vouchers, payment slip etc. so as to show that the payment of wages to the workmen. Further, it was mandatory for FCI to appoint their authorized representative in whose presence payment of wages was required to be made. There is nothing in the statement of MW1 nor in the written statement filed by the management as to what amount of wages was released to the contractor or whether payment of such wages was made by the contractor to the workmen in the presence of the authorized representative. Management has also not taken care to specifically prove the contract for the period 2003-04, which was very essential so as to ascertain the terms and conditions of contract and to determine the period for which the workmen were employed by the contractor.

28. In Steel Authority of India (supra), Hon'ble Apex Court while dealing with the question of sham or camouflage contract in para 69 observed that the term 'contract labour' is a species of workman. A workman shall be so deemed when he is hired in or in connection with the work of an establishment by or through a contractor, with or without the knowledge of the principal employer. A workman may be directly employed by the principal employer, i.e. FCI and that such workman hired in connection with the work of an establishment by the principal employer through a contractor even if such contractor merely acts as an agent and therefore there will be master and servant relationship between the principal employer and the workman. But where

a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workman for any work of the establishment, a question might arise whether the contractor is a mere camouflage as was held in the case of Hussainbhai Calicut and in Indian Petrochemicals Corporations case. If the answer is in the affirmative, the workman will be in fact an employee of the principal employer; but if the answer is in the negative, the workman will be a contract labour.

29. Ratio of Steel Authority of India case (supra) has been followed consistently by the various High Courts as well as Industrial Tribunals and the same has been cited with approval by the Apex Court in the subsequent pronouncements. The principles enunciated in the above ruling really shines like a pole star and are of immense help to those who are lost in the mist of legal confusion.

30. Later on in International Airport Authority vs. International Air Cargo Workers (2009 13 SCC 374) question of engaging of contract labour or where contract is sham or camouflage was again considered by Hon'ble Apex Court particularly when there is no prohibition notification issued under Section 10 of the CLRA Act and the workman is coming with the plea that the contract is sham and nominal and contract is merely a name lender but does not have any supervisory control and it was held as under:

“20. But where there is no abolition of contract labour under Section 10 of CLRA Act, but the contract labour contend that the contract between principal employer and contractor is sham and nominal, the remedy is purely under the ID Act. The principles in Gujarat Electricity Board continue to govern the issue. The remedy of the workmen is to approach the industrial adjudicator for an adjudication of their dispute that they are the direct employees of the principal employer and the agreement is sham, nominal and merely a camouflage, even when there is no order under Section 10(1) of CLRA Act. The industrial adjudicator can grant the relief sought if it finds that contract between principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employer and that there is in fact a direct employment, by applying tests like: who pays the salary; who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee the way in which the work should be done, in short who has direction and control over the employee. But where there is no notification under Section 10 of the CLRA Act and where it is not proved in the industrial adjudication that the contract was sham/nominal and camouflage, then the question of directing the principal employer to absorb or regularize the services of the contract labour does not arise. The tests that are applied to

find out whether a person is an employee or an independent contractor may not automatically apply in finding out whether the contract labour agreement is a sham, nominal and is a mere camouflage. For example, if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by contractor, if the right to regulate employment is with the contractor, and the ultimate supervision and control lies with the contractor. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor.”

31. Ratio of the above authority of Hon'ble Apex Court was also followed by Delhi High Court in 'Management of Ramjas Public School (Day Boarding) represented by its Chairman Vs. Dharmender & Others' (2016 LLR 1126).

32. Shri M.C. Pant, learned A/R for the claimant invited attention of the Tribunal to the various documents/letters particularly Ex.WW2/2 to Ex.WW2/4 written by FCI through its Managers which shows that supervisory control over the workmen was that of FCI and nowhere contractor was involved in handling work at Jwalapur Depot. He has also referred to the stock bills as well as stock of FCI at Shrinagar and Jwalapur Depot, which are mentioned in Ex.WW3/153 to Ex.WW3/357, which shows that foodgrains from time to time were being handled by the workmen at the respective depots. There is also mention of the period of the year 2003 when salary paid to the workmen. Learned A/R for the claimant has also made reference to the report of Ms.Shukla, Ex.WW3/1 so as to prove the documents pertaining to the employment of the workmen herein at Jwalapur Depot but officials of the FCI were not intentionally producing those documents so as to ensure that they are not considered to be employees of the principal employer.

32. I have carefully gone through report of the Local Commissioner, Ms.Shipra Shukla WW3/1 when she visited the Depot at Jwalapur initially on 27.12.2013 and at that time learned authorized representatives of both the parties as well as Shri Uday Singh Rawat, Shri Darbara Singh, Area

Manager along with other officials of FCI and Shri Rajbir Singh, General Secretary of FCI Labour Union were present. Directions of the court were very clear and the officials of FCI were required to produce all the documents, i.e. attendance register, wage register and other documents, including keys to open the almirah so that relevant documents are taken into possession and examined by the Local Commissioner. It is further clear from her report that Shri Uday Singh Rawat, Manager had informed on the spot that Jwalapur depot from March 2004 was non-functional and even the staff of FCI stopped working for the said depot after 12.03.2004. She has referred to letter dated 12.03.2004 which is Ex.WW3/4. This letter has been addressed to SSP Shri Ashok Kumar at Haridwar. In the end of the letter, it is clear that help of the police has been sought so that PSD operation could be run smoothly in Haridwar city. There is also reference to the contractor who has been authorized to do the above work. WW3/357 is the photo of the sign board of Jwalapur depot. She has also referred to another letter written by District Manager, Shrinagar to Shri Rajbir Singh, General Secretary, which is Ex.WW3/5, which clearly shows that Shri Rajbir Singh has been asked to be present on 10.07.2003 alongwith other workers at Jwalapur godown and start work therein in view of the directions passed by the High Court in the writ petition. It is clearly suggestive of the fact that the workmen herein were engaged by FCI at Jwalapur depot in view of the directions of the Hon'ble High Court, from 10.07.2003 onwards. There is list of articles in the godown, which is Ex.WW3/6 and list of the workmen who were working at Jwalapur Depot, Ex.WW3/9. Shri Uday Singh Rawat had disowned the above list on the ground that it is not on the letter head of FCI but he has not denied attestation of 200 workers made by the Assistant Manager on 30.09.2003. The Local Commissioner has also found some very old record in gunny bags, like transfer certificate for the year 1990 onwards. It is necessary to note here that as per para 13 of the Local Commissioner, that the Depot Incharge Shri Inderpal Singh volunteered to explain on the spot to the Local Commissioner. However, Shri Darbara Singh has virtually restrained him, as a result of which he kept mum. It was admitted during the course of argument that charge of FCI Depot at Jwalapur was taken by Shri Inderpal Singh from Shri Tomar and that Inderpal Singh was virtually the last Depot Incharge at Jwalapur Depot. There is another letter Ex.WW3/12 which was in possession of the Local Commissioner which shows that for a period of 2 years, work of handling at Jwalapur Depot in the year 1993 was given to some private contractor. There is another letter dated 17.11.1993 Ex.WW3/14, which shows that for two years HTC work was given to the workmen herein through their union.

33. During the course of arguments, this Tribunal wanted to know from the learned A/R for the management regarding proof of contract as well as payment of wages to the various

workmen through contractors. As discussed above, it was incumbent upon the management to ensure payment of wages to the workmen through the contractor, failing which in terms of Section 21, principal employer (FCI) was required to make the said payment. All these documents are required to be maintained by the principal employer also. This is also necessary because the principal employer can always deduct the amount paid as wages to the workmen from the amount of the contractor. Rule 74 and 75 of the Contract Labour Central Rules also requires the principal employer to maintain register of contractor in Form XII and Rule 75 requires the name of the workmen working at each establishment to be mentioned in Form XIII. On termination of the employment, contractor is also required to issue wage slip to the workmen in Form XVI atleast one day prior to disbursement of wages. Signature/Thumb impression of the workers is required to be taken on the register of wages or muster roll cum wage register as the case may be. Clause(d) of Rule 78 further requires the contractor to maintain the following registers. i.e. (a) Muster Roll; (b) Register of Wages; (c) Register of Deductions (d) Register of Overtime; (e) Register of Fines (f) Register of Advances (g) Wage slip. All these documents are required to be legible in English and Hindi or in any language understood by majority of workmen. Not only this, all registers and records are required to be preserved in original for a period of three calendar years and all such registers and record etc. shall be produced on demand before the Inspector or any other authority under the Act. Rule 82 requires every contractor to submit half yearly returns on Form XVI so as to reach the Licencing Officer concerned. Since management has not taken care to produce any such document, nor the name of the contractor has been mentioned, therefore simply because Local Commissioner has taken into possession document to which the A/R for the management has referred as contracts, they would not mean that the same can be taken into consideration as proof of engagement of the workmen herein by contractor. This Tribunal can even otherwise draw adverse inference against the management inasmuch as management at every stage tried to withhold vital documents and did not allow Shri Inderpal Singh to talk to the Local Commissioner on the spot, who was explaining to the Local Commissioner regarding background of the dispute and availability of the relevant record in the office of FCI at Jwalapur Depot.

34. It is further clear from the report of the Local Commissioner that after her visit at Jwalapur Depot, she also visited the office/godown at Shrinagar and parties to the case as well as other officials of FCI were present at that time. Officials at Shrinagar were fully aware regarding documents which were in possession of the Local Commissioner and other documents which were not produced by the officials of FCI by stating that the same were at Head Office: Delhi. Though the management has

disputed observations of the Local Commissioner about letter dated 06.10.2008, however the same could have been easily verified by this Tribunal had the management produced Shri R.P.S.Panwar so as to verify his signatures on the relevant documents. Even after submission of the report of the Local Commissioner, no steps were taken by the management to produce the relevant documents, including contract which was in operation during the period 10.07.2003 to 28.10.2004 or before of thereafter. From the side of the management, no list of the workers in fact was produced who were deployed as per the stand of the management by the contractor at Jwalapur Depot. Conduct of the management in not producing the relevant documents as discussed above either before the Local Commissioner or before this Tribunal is required to be deprecated. It is now fairly settled position in law that if a party is in possession of best evidence which can throw light on the relevant issue in controversy and such a party withholds the documents without assigning any specific reason, in that eventuality court ought to draw adverse inference against such party notwithstanding onus of the proof does not lie on such party to prove the issue. Reliance in this regard has been placed upon the case of Gopal Krishnaji Ketpar vs. Mohamed Haji Latif (AIR 1968 SC 1413). Even in subsequent pronouncements in the case of Sushil Kumar Vs. Rakesh Kumar (2004 (1) SLJ 655) and 2006 Cr.LJ 4598) Hon'ble Apex Court has observed that non-production of the documents in possession of a public functionary who is under statutory obligation to produce the same would result in drawing of adverse inference against such party. Further conclusion which can be drawn is that had the documents been produced, the same would have gone against such a party.

35. During the course of arguments, management also relied upon the case of Ram Swaroop Vs. Labour Court (1995 (73) FLR 1139) which was a case where services of the workman was wrongly terminated and the management resisted the claim that he was not direct employee as the work has been outsourced to a private contractor, as such there was no relationship of master and servant between the management and workman as it has come in evidence that overall control of the workman was with the contractor who was paying salary to the workman and his attendance was also being marked by the said contractor. However, situation in the case in hand is different. There is no cogent or reliable evidence on record to suggest that handling work of foodgrains was given during the relevant period to any specific contractor. Management, as discussed above, has not disclosed the name of such a contractor nor any document has been filed by the management to show that payment of wages was being made directly by the contractor to the workmen herein nor there is any evidence to show that control over the work was that of the contractor directly. Rather in the case on hand there is evidence on record to suggest that letter

Ex.WW2/3 has been written to the General Secretary Shri Rajbir Singh, who has been directed by the officials of FCI to bring all the workers at Jwalapur Depot so as to perform their duties. It is clearly suggestive of the fact that control of the workmen was with officials of FCI. Moreover, perusal of the documents taken into possession by the Local Commissioner right from Ex.WW3/2 to Ex.WW3/357 shows that during different years, right from 1997 onwards, payment regarding handling charges and salary of the employees at Jwalapur Depot was being sanctioned by the management of FCI. Admittedly the workmen herein were working in the premises of Jwalapur Depot. There is a sanction letter dated 16.12.2003 Ex.WW3/54 which shows that FCI has released amount for the period 01.07.2003 to 31.10.2003 as per the bills. It is further clear from perusal of the stock ledgers annexed with the report of the Local Commissioner that the handling work of foodgrains was being done regularly after 1996-97 as payment amount is being shown at Shrinagar Depot as well as Jwalapur Depot in the said entries. When the Local Commissioner was examined as witness before this Tribunal, no specific question has been put by the management to the Local Commissioner regarding veracity of the above bills. Even during the course of arguments, authenticity of these documents was not challenged by either of the parties. However, when this Tribunal tried to ascertain as to who was the contractor during the relevant time, learned A/R for the management stated that one Shri Jaswant Rana was awarded work during the period 2003-04.

36. Yet in another case, Hon'ble Apex Court in State of Haryana State Electricity Board Vs. Suresh (1999 LLR 433) question of contract labor which was alleged to be sham or smoke screen by the workman was considered. It was a case where Haryana State Electricity Board awarded contract to a contractor to undertake the work of keeping plants and cleaning etc. The said workman had put in more than 240 days of service and subsequently his services were discontinued by the management. Ultimately matter was referred to the Industrial Tribunal by way of reference and labour Court after considering evidence on record came to the conclusion that the worker had put in more than 240 days in a year; as such, they were ordered to be reinstated with continuity of service with 10% back wages. A writ petition was filed in the High Court and the same was rejected. Later on when the matter was taken to the Hon'ble Apex Court, strong arguments were advanced on behalf of Electricity Board that the workman in the said case were engaged by the contractor who was paying wages to them and the Board is not liable to continue them in service or pay back wages. In the said case also, it was proved on record that the contractor to whom contract was given was not duly licenced nor the employer, Electricity Board was holding license to award contract. Contention of the Board was rejected by the Hon'ble Apex Court, wherein it was observed as under:

‘It has to be kept in view that this is not a case in which it is found that there was any genuine contract labour system prevailing with the Board. If it was a genuine contract system, then obviously, it had to be abolished as per Section 10 of the Contract Labour Regulation and Abolition Act after following the procedure laid down therein. However, on the facts of the present case, it was found by the Labour Court and as confirmed by the High Court that the so called contractor Kashmir Singh was a mere name lender and had procured labour for the Board from the open market. He was almost a broker or an agent of the Board for that purpose. The Labour Court also noted that the Management witness Shri A.K. Chaudhary also could not tell whether Shri Kashmira Singh was a licensed contractor or not. That workmen had made a statement that Shri Kashmira Singh was not a licensed contractor. Under these circumstances, it has to be held that factually there was no genuine contract system prevailing at the relevant time wherein the Board could have acted as only the principal employer and Kashmira Singh as a licensed contractor employing labour on his own account. It is also pertinent to note that nothing was brought on record to indicate that even the Board at the relevant time, was registered as principal employer under the Contract Labour Regulation and Abolition Act. Once the Board was not a principal employer and the so called contractor Kashmira Singh was not a licensed contractor under the Act, the inevitable conclusion that had to be reached was to the effect that the so called contract system was a mere camouflage, smoke and a screen and disguised in almost a transparent veil which could easily be pierced and the real contractual relationship between the Board, on the one hand, and the employees, on the other, could be clearly visualized.’

37. It is clear from dicta laid down in the above authority that when the work is of perennial nature and neither the employer nor the contractor are holding the requisite licence to award contract in terms of provisions of CLRA Act, in that eventuality conclusion would be that the contract system was a mere sham or camouflage.

38. Hon’ble Apex Court in *ONGC vs. Petroleum Coal Labour Union* (2015) Lab IC 2483 deprecated the practice of engaging workers on temporary basis where the work is regular or of perennial nature. It was held that such a practice amount to unfair labor practice as defined under Section 2(k) read with Section 25(T) and Section 25(U) of the ID Act. In the present case also, work which was being performed by the workmen is not of seasonal nature and various documents taken in possession by the Local Commissioner clearly establishes that the labour is being employed for handling of sacks regularly by the officials at Shrinagar, Rourkee and Jwalapur, which are permanent depots of FCI.

39. It was also brought to the notice of the Tribunal that the workers who were doing similar work at Rourkee and other places are regular workmen whereas only Jwalapur Depot has been singled out by the Government. To my mind, this is really in violation of the principles of rule of law which are applicable in the governance of the Country and such an action of the Government cannot be said to be in consonance with the equality clause contained in Article 14 of the Constitution of India.

40. As already discussed, there is no examination of this witness nor any contract which was entered into with the contractor has been placed on record so as to ascertain the terms and conditions. There is nothing on record to show that whether this contractor or any other contractor has made payment of wages to the workmen herein for the period 10.07.2003 to 28.10.2004. At the cost of repetition, it is to be stated under the provisions of CLRA Act, it the duty of the principal employer to ensure payment of wages to the workman in case payment has not been made by the contractor. Even if payment is made by the contractor, authorized representative, as per rules discussed above, is required to be present on the spot so as to ensure due and proper payment to the workers. There is nothing on record to show that provisions of CLRA Act as discussed above has been followed by the contractor or the management in letter and spirit or in substantial manner. The Tribunal cannot ignore the fact that Act was enacted by the Parliament to deal with the abuse of contract labour system and it is primarily a social welfare legislation so as to safeguard interest of the workmen or casual labour deployed by the management or the contractor as the case may be. In *Steel Authority of India* (supra), has highlighted various aspects of this Act and also emphasized the need to follow various provisions so that the workmen are saved from exploitation. This Tribunal cannot ignore the fact that the workmen herein were terminated without serving any notice of one month or salary in lieu thereof as such there is also violation of provisions of Section 25F of the ID Act.

41. Net result of the discussion is that the workmen herein have worked during the period 10.07.2003 to 28.10.2004 and it is held that they have not received wages for the said period as no oral or documentary evidence has been adduced by the management to prove the same. Sine there is no admissible evidence on record to suggest that handling work of Jwalapur Depot was given to any licenced contractor by the FCI nor there is any statement from the side of the contractor to prove that the workmen herein were working under him, as such it is reasonable to hold that the workmen herein were in direct employment of FCI during the relevant period, more so when no evidence has been adduced to the effect that it was the contractor was directly making payment or supervising work of

handling etc., in such circumstances. Conclusion can be drawn that even if there was any contract in the manner as alleged by the management, same is held to be sham or camouflage or a smoke screen; such contractor was simply a name lender as the said contractor has neither been examined nor contract has been proved on record.

42. Having said so, residual question which requires further consideration is whether closure of Jwalapur Depot by the management of FCI is in violation of section 25(o) of the Industrial Disputes Act. It is neither in doubt nor in dispute that the depot at Jwalapur has been closed since 2004. Learned authorized representative for the management strongly urged that closure of the depot at Jwalapur was due to the reason that the workmen herein have created unrest and it was difficult for the management to control them, as a result of which management was forced to close the depot at Jwalapur. In this regard, it is appropriate to mention here that there is no cogent or relevant evidence led by the management that any kind of unrest was created by the workmen herein as a result of which management was forced to close the depot after 2004. There is not even a whisper in the statement of MW1 in his affidavit. Therefore, arguments advanced by the management is just for the sake of arguments only, which is not the basis either in the pleadings or evidence adduced during the course of trial. Section 25(o) of the ID Act contains procedure which is required to be adopted in case any industrial undertaking or an establishment is to be closed. An employer has to apply in the prescribed manner, at least ninety days to the Government before the date on which the employer intends to close the undertaking or industry, clearly stating therein reasons for such closure of such undertaking. Copy of such application is required to be supplied to the representatives of the workmen. It is thereafter that the appropriate Government after making such enquiry as it deems fit and affording reasonable opportunity of being heard, both to the employer as well as the workmen and after taking into consideration interest of the general public etc., after reasons to be recorded in writing may grant or refuse to grant such permission. Clause 6 of the above section provides when such permission has been refused by the Government, closure of undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all benefits under any law for the time-being in force as if the undertaking has not been closed down.

43. Admittedly, the above procedures have not been followed by the management and they have come with the contention that in the present case provisions of section 25(o) cannot be pressed into service unless the conditions contained in Section 25(k) of the Industrial Disputes Act are fulfilled. Section 25(k) of the ID Act deals with deals with special provision relating to law of retrenchment and closure of certain establishment. Sub-section (1) of Section 25 clearly provides that provisions of this Chapter shall apply to industrial establishments (not being an

establishment of seasonal character) engaging not less than one hundred workmen were employed on an average per working day for the preceding twelve months. To my mind, contention of the management regarding applicability of section 25(K) is meritless inasmuch as more than 100 workers were admittedly working at Jwalapur Depot. Question as to whether the work at Jwalapur Depot is of seasonal nature is to be decided by the appropriate Government and not by the management. When Jwalapur Depot comes within the definition of establishment or industry and even contract labour employed either by the contractor or FCI, as the case may be, falls within the definition of 'workmen', under such circumstances, it does not lie in the mouth of the management to say that provisions of section 25(o) are not applicable.

44. Learned authorized representative for the management also referred to the award of the Tribunal in FCI Mazdoor Sangh vs Senior Manager in ID No.69/2008, decided on 11.03.2010. Firstly question involved in the award, which is not exhibited, is not the same as involved in the case in hand. Moreover, workers in the said award are also different though it pertains to Jwalapur Depot. However, this award passed by the Court of Co-ordinate jurisdiction is not binding upon this Tribunal. There is no merit in the contention that unrest was created by the union herein as a result of which management was forced to close the depot. Even if it were so, there was no bar for the FCI to bring this fact to the notice of the authority or the appropriate Government. In the absence of any such evidence on unrest, contention of the management is rejected.

45. As a sequel to my discussion made hereinabove, it is held that the workmen herein Shri Rajbir Singh and 199 others were employed by Food Corporation of India Depot at Jwalapur and they have not received their salary/wages for the period from 10.07.2003 to 28.10.2004 under direct payment system and thereafter their discontinuation/termination from service is also held to be illegal and unjustified as the same is in violation of provisions of Section 25(o) of the ID Act. Since the Depot at Jwalapur is stated to be closed since 2004, as such, FCI would be at liberty to engage the workmen herein willing to work at a nearby place like Roorkee, Shrinagar, Haridwar etc. as the management thinks fit. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act 1947, for publication.

Dated : February 29, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 9 मार्च, 2016

का.आ. 512.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ सं. 37/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2016 को प्राप्त हुआ था।

[सं. एल-22012/274/2002-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2016

S.O. 512.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Kunustorai Colliery, M/s. Eastern Coalfield Limited and their workmen, received by the Central Government on 09/03/2016.

[No. L-22012/274/2002-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 37 OF 2003

PARTIES:

The management of Kunustoria Colliery
of M/s. E.C.L.

Vs.

Sri Kameshwar Paswan

REPRESENTATIVES:

For the management : Sri. P. K. Das, Ld. Advocate

For the union (Workman) : Sri. S. K. Pandey, Gen.
Secy., CMC

Industry : Coal State : West Bengal

Dated : 24.02.2016

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/274/2002-IR(CM-II) dated 13.10.2003 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of management of Kunustoria Colliery of ECL in not accepting the decision of the Age Assessment Committee in respect of age of Shri Kameshwar Paswan is legal and justified? If not, to what relief the workman is entitled?”

Having received the Order No. L-22012/274/2002-IR(CM-II) dated 13.10.2003 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 37 of 2003 was registered on 20.10.2003. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

1. The workman has stated in his written statement that Kameshwar Paswan, Body Searcher of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited was appointed in Kunustoria Colliery as Body Searcher in the year 1972. His age was not recorded in the ‘B’ Form at the time of appointment. The age / Date of Birth of the workman was recorded in the ‘B’ Form Register as 11.06.1942 without any basis and without the knowledge of the workman. The workman requested to the management for correction of his date of birth in the record since 1986 and again in the year 1987 through the Service Excerpts. Accordingly the workman was called by the management during 1988 and his age was arbitrarily assessed without observing any formalities as per rules of medical jurisprudences As per the request of the workman the management again referred his case to the Age Assessment Committee in the year 1989. Though the management did not communicate the request of Age Assessment Committee, but the workman came to know that his age was assessed as 42 years in the year 1989. In spite of the repeated request by the workman as well as Union the management did not correct his date of birth in the ‘B’ Form of the Colliery as per the report of the Age Assessment Committee held in the year 1989. The management forcefully superannuated the workman from the service of the company on the basis of wrong-recorded age / Date of Birth in the ‘B’ Form of the colliery. The action of the management of Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited in not accepting the decision of the Age Assessment Committee in respect of age of Sri Kameshwar Paswan is illegal and unjustified. The workman has prayed that the tribunal may kindly direct the management of Kunustoria Colliery of M/s E.C.L to accept the decision of the Age Assessment Committee in respect of age of Sri Kameshwar Paswan held in the year 1989 and for payment of wages for his forceful idleness w.e.f.01.07.2002.

2. In defence Kunustoria Colliery under Kunustoria Area of M/s. Eastern Coalfields Limited has stated briefly in their written statement that Sri Kameshwar Paswan was appointed on 05.06.1972 and he raised the dispute with regard to his date of birth in the year 1987 in the several

record excerpts, and on raising such dispute his case was referred to the Age Determination Committee which was held at Kunustoria Area on 24.12.1988. As per the guideline of I. I. no. 76 of JBCCI and the said committee assessed the date of birth of the concerned employee as 11.06.1942. On the basis of such assessment of age of the concerned employee by the said committee the Form 'B' register, Identity Card and other statutory records were corrected on the basis of said assessed date of birth and the said assessment was duly communicated to the concerned employee who accepted the said assessment. After the said assessment of age the concerned workman he again represented before the Colliery management for re-assessment of his age by disputing the earlier assessment. The concerned workman was again referred to the Age Assessment Committee and after proper assessment, the age of the concerned workman was assessed as 11.06.1942 in the year 1989. The said assessment was done in accordance with the principles of medical jurisprudence and in strict compliance of the guideline as formulated in I. I. No 76 of JBCCI. It is denied that assessment was done arbitrarily without observing any formalities as per rules and regulations of medical jurisprudence. The reference is misconceived one

3. The workman has filed copy of written statement submitted by management of M/s. Eastern Coalfields Limited before the A.L.C.(C) and copy of report of "Failure of Conciliation" sent to Secretary, Govt. of India, Labour Ministry. The workman has filed the affidavit in his oral evidence. He has been cross-examined by the learned Advocate of M/s. Eastern Coalfields Limited. M/s. Eastern Coalfields Limited has not filed any oral or documentary evidence in their support.

4. I have heard Sri S. K. Pandey, learned Union representative on behalf of workman and Sri P. K. Das, learned Advocate on behalf of M/s. Eastern Coalfields Limited.

5. Sri S. K. Pandey has argued that the Age Assessment Committee wrongly assessed the date of birth as 11.06.1942. The report of second assessment held in 1989 was not complied with by M/s. Eastern Coalfields Limited. Whereas Sri P. K. Das has argued that the age was correctly assessed by Age Assessment Committee of concerned workman as per medical jurisprudence and it was duly communicated to him. Second Age Assessment Committee also assessed the same date of birth i.e. 11.06.1942. There is no discrepancy in the Age Assessment Committee of M/s. Eastern Coalfields Limited.

6. The contention of the concerned workman is that he was appointed in the year 1972, at that time his Date of Birth was not recorded in service records. Thereafter, he agitated regarding his Date of Birth in the year 1986 and 1987. Though the Age Assessment Committee assessed

his date of birth as 11.06.1942 but after his protest the Age Assessment Committee assessed his age for second time in 1989. In 1989 his date of birth was assessed as 42 years. On the basis of his wrong date of birth he was premature superannuated. On the other hand, the contention of the Kunustoria Colliery of M/s. Eastern Coalfields Limited is that the concerned workman was appointed on 05.06.1972. On the protest of the concerned workman in 1987 the Age Assessment Committee assessed the age of delinquent in 1988 as 11.06.1942. Again the workman protested regarding his date of birth. Again Age Assessment Committee reassessed his age in 1989 as 42 years as per guideline.

7. As per affidavit of concerned workman filed in his oral evidence he has stated that he was superannuated forcibly on 30.06.2002. He has admitted that he was medically examined by Age Assessment Committee twice in the year 1988 and 1989. In cross examination dated 30.5.2013 he has stated his age as 58 years. He has not filed any documentary evidence in support of his age. Even in affidavit he has not stated on which date he was born. Even in his written statement he has not disclosed his date of birth. Therefore there is no basis for accepting this statement that on May, 2013 he was 58 years old. The workman has specifically admitted in para-5 and para-7 of his written statement that his age was assessed by the Committee as 11.06.1942. As per letter of Sri P. K. Nayak the then Assistant Labour Commissioner (C), Asansol dated 29.7.2002 /01/08/2002 addressed to the Secretary, Govt. of India, Ministry of Labour, it is apparent that the dispute was raised by workman through his Union representative regarding correction of his Date of Birth. The dispute was referred by Union representative by letter No. KMC/KNT/ID/2001/128 dated 18.03.2001. The Assistant Labour Commissioner fixed the dates for reconciliation on 03.05.2001, 04.09.2001, 17.09.2001, 11.10.2001 and 23.11.2001. The representatives of both sides appeared, but reconciliation was failed.

8. Thus, it is apparent that the concerned workman raised the dispute before A.L.C.(C) in March, 2001. As per his evidence in affidavit he was superannuated on 30.06.2002. Thus he agitated regarding his date of birth just fifteen months before his superannuation. Whereas he was very well aware in 1988 and 1989 about his Date of Birth as 11.06.1942 which was recorded in his service excerpts.

9. It is settled law that the date of birth as recorded in the service book cannot be changed after a long period, particularly at the fag end or nearer to the date of retirement or superannuation. Hon'ble Apex Court in State of U.P. & Anr. v/s Shiv Narain Upadhyaya (2005) 6 SCC 49 reported in A.I.R. 2005 SC 4192 has held that the date of birth as recorded in the Service Book cannot be changed after a long period, particularly at the fag end or nearer to the date

of retirement or superannuation. Hon'ble Apex Court in another case: Registrar General, High Court of Madras v/s M. Manickam and others (2011) 9 SCC 245: reported in A.I.R. 2011 SC 3658 has held that "Change of date of birth is a very important responsibility to be discharged for there is a general tendency amongst the employees to lower their age and change their date of birth to suit their career and to lengthen their service career".

10. In view of the law laid down by Hon'ble Apex Court since the workman has agitated this dispute regarding his incorrect date of birth cannot be accepted. It is relevant to mention that concerned workman has nowhere mentioned his Date of Birth. At the fag end of retirement few months before superannuation assailing the incorrect Date of Birth assessed by a Committee of M/s. Eastern Coalfields Limited cannot be accepted.

11. Considering the whole facts and circumstances of the reference, discussed above, I come to the conclusion that the action of management regarding age of concerned workman Sri Kameshwar Paswan is legal and justified. The concerned workman is not entitled to any relief.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 9 मार्च, 2016

का.आ. 513.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ सं. 48/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2016 को प्राप्त हुआ था।

[सं. एल-22011/10/2015-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2016

S.O. 513.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, Regional Office and their workmen, received by the Central Government on 09/03/2016.

[No. L-22011/10/2015-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 48 of 2015

Parties:

Employers in relation to the management of Food Corporation of India, Regional Office

AND

Their workmen

Present: Justice Dipak Saha Ray, Presiding Officer

Appearance:

On behalf of the : None
Management

On behalf of the : None
Workman

State: West Bengal Industry: Food & Public
Distribution

Dated: 24th August, 2015

AWARD

By Order No. L-22011/10/2015-IR(CM-II) dated 03.08.2015 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the decision of the Management of Food Corporation of India is justified in engaging contractual workmen through engagement of Handling contractor in place of regular workmen for loading and unloading of rakes at Sreerampour Rly. Siding is legal and/or justified? If not, what relief the workmen are entitled to?"

2. When the case is taken up today for hearing, none appears either on behalf the union or on behalf of the management. It appears from the record that none appeared on behalf of the union on the previous two dates inspite of service of notice. In fact none ever appeared on behalf of the union since initiation of the instant reference.

3. From the above facts and circumstances it may reasonably be presumed that the union at whose instance the present reference has been initiated has got no interest in the matter. So, no fruitful purpose will be served in keeping the matter pending.

4. Considering the above, instant reference is disposed of by passing a "No Dispute Award".

Kolkata,

Dated the 24th February, 2016

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 9 मार्च, 2016

का.आ. 514.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 9/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2016 को प्राप्त हुआ था।

[सं. एल-22012/58/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2016

S.O. 514.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 9/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Sohagpur Area of SECL and their workmen, received by the Central Government on 09/03/2016.

[No. L-22012/58/2004-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/9/2005

The Secretary,
MP Koyla Mazdoor Sabha (HMS),
Near GM Office, Dhanpuri,
Distt. Shahdol

...Workman/Union

Versus

Chief General Manager,
Sohagpur Area of SECL,
PO Dhanpuri,
Distt. Shahdol

...Management

AWARD

Passed on this 12th day of February, 2016

1. As per letter dated 30-12-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-22012/58/2004-IR(CM-II). The dispute under reference relates to:

“Whether the action of the Chief General Manager, Sohagpur Area of SECL, PO Dhanpuri, Distt. Shahdol (MP) in not allowing Shri Heera Singh, S/o Shri Sukhdeo Singh, Token No. 3631, Amlai Colliery for duties is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman filed statement of claim at Page 2/2 to 2/4. Case of Ist party workman is that he was working as General Mazdoor in new Amlai colliery holding Token No. 3631. That he was sick in the month of August 2001 the employer was informed. After recovery of his illness, he had gone to join duty alongwith medical certificate, he was not permitted to join duty without assigning reasons. He received letter dated 31-8-00. He given reply to said letter which was received by office of 2nd party on 3-9-01. Ist party workman reiterates that management did not allow him to join duty. The dispute was raised before ALC. After failure to settle the dispute, reference is made to this Tribunal. Ist party workman contends that he filed documents relating to his sickness therefore management cannot discontinue or terminate on the ground of misconduct. That he is illiterate person and unable to understand the action taken by management. that in absence of enquiry, action of management is in violation of principles of natural justice. If misconduct is found proved, for absence of 1-2 months when he was suffering from illness, his services cannot be terminated. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 5/1 to 5/9 opposing claim of workman. case of 2nd party is that workman Heera Singh was initially appointed as General Mazdoor he was habitual absentee. He remained absent from duty without intimation or permission or sanctioned leave. Workman was issued several warnings, chargesheets committed misconduct remaining absent form duty unauthorisely. The details of the working days of workman are shown in Para 4 of Written Statement in 1997 for 113 days, in 1998 for 98 days, in 1999 for 112 days, in 2000 for 55 days and in 2001 till August- 44 days.

4. That chargesheet was issued to workman on 31-8-01 for absence from duty from 23-7-01. Workman submitted reply to chargesheet. Reply of workman was found unsatisfactory. Management decided to conduct DE. Shri R.Kumar was appointed as Enquiry Officer, Shri D.K.Verma as Management Representative. Memorandum of enquiry was issued on 12-9-01. Enquiry was conducted on 13-9-01. Charges were read over to workman. He denied the charges against him. witness of management produced Form C Register and Summary Register. Workman was asked to cross-examine witness but he denied to cross-examine management's witness. 2nd party reiterates that enquiry was conducted properly. Enquiry Officer held charges against workman were proved. Considering proved charges against workman, punishment of dismissal was imposed. While imposing punishment, the past records of workman was considered. He was given written warnings, not attending duties. 2nd party refers to the ratio held in various cases by Hon'ble Apex Court. 2nd party further submits that sick leave is granted after certificate issued by Medical officer. Workman had not given intimation about his

absence of sickness. For proved unauthorized absence, workman was dismissed from service. Workman is not entitled to any relief.

5. As per order dated 26-2-2014, enquiry conducted against workman is found proper and legal.

6. Considering pleadings on record and order on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the charges alleged against workman is proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) Whether the action of the Chief General Manager, Sohagpur Area of SECL, PO Dhanpuri, Distt. Shahdol (MP) in not allowing Shri Heera Singh, S/o Shri Sukhdeo Singh, Token No. 3631, Amlai Colliery for duties is proper and legal? | In Negative |
| (iii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. Enquiry conducted against workman is found proper and legal as per order dated 26-2-2014. Terms of reference and statement of claim pertains to refusal by management to allow workman on duty. However in Written statement, 2nd party has contented that chargesheet was issued to workman and his services are terminated for proved misconduct of unauthorized and habitual absence. Document Exhibit M-8 produced in enquiry working days of workman in 1999 are shown. The report of enquiry is produced at Exhibit M-13. Working days of workman are shown in 1998 – working days- 98 days, CL-9 & sick leave-15, in 1999- working days-110 days, CL-10 days, sick leave-15 days, in 2000- working days-55 days, CL-8 days, sick leave-15, in 2001- working days 44 days, CL-8, sick leave-15 days. Chargesheet was issued to workman on 31-8-01 covering the working of 1st party workman in 1997 for 113 days, in 1998 for 98 days, in 1999 for 110 days, in 2000 for 55 days and in 2001- monthwise working days are shown till the month of August. The copies of muster roll for the year 1998, 99, 2000, 2001 are produced in Enquiry proceedings. Evidence in Enquiry Proceedings supports findings of Enquiry Officer. Therefore findings of Enquiry Officer cannot be said perverse. The unauthorized absence of workman is established. The documents of earlier chargesheet and warnings issued to workman are not produced on record. the charges shown in chargesheet Exhibit M-2 dated 31-8-01 are proved from evidence in Enquiry Proceedings. The punishment of removal is imposed against workman as per order Exhibit M-14.

8. As per evidence of management's witness, 1st party workman was initially appointed as General Mazdoor. Exhibit M-1 is excerpt of service book produced by management. The age of workman at the time of appointment is shown 32 years. In his affidavit of evidence, age of workman is shown 50 years. It is clear that workman was working with 2nd party for quite long period. Any adverse service record is not produced. Therefore punishment of removal imposed against workman appears harsh.

9. Shri A.K.Shashi relies on ratio held in

Case of New India Assurance Co.Ltd versus Vipin Beharilal Srivastava reported in 2008(3)SCC-446. Ratio held in the case pertains to proper mode of obtaining sick leave.

Ratio held in case of Indian Iron and Steel Co. Ltd versus Prahlad Singh reported in 2001(1)SCC-424 deals with the delay of 13 years in raising dispute.

In present case, there is no longer delay in raising dispute. The services of workman terminated in 2001, the dispute is raised in 2005. Sick leave are already shown by the management. Therefore ratio held in above cases cannot be beneficially applied. Workman has not committed any act of causing loss, damage to the property of 2nd party by committing any fraudulent act, therefore punishment of removal cannot be sustained. In my considered view considering length of service served by workman, punishment of removal from service deserves to be modified to compulsory retirement allowing retiral benefit to the workman. accordingly I record my finding in Point No.2.

10. In the result, award is passed as under:-

- (1) The action of the Chief General Manager, Sohagpur Area of SECL, PO Dhanpuri, Distt. Shahdol (MP) in not allowing Shri Heera Singh, S/o Shri Sukhdeo Singh, Token No. 3631, Amlai Colliery for duties is not proper and legal.
- (2) Punishment of removal from service of workman is modified to compulsory retirement. 1st party workman be allowed retiral benefits as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2016

का.आ. 515.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एनसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 88/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2016 को प्राप्त हुआ था।

[सं. एल-22012/84/2012-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2016

S.O. 515.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 88/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Jayant Project of NCL and their workmen, received by the Central Government on 09/03/2016.

[No. L-22012/84/2012-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/88/2012

Zonal Secretary,
Koyla Udhog Kamgar Sangathan,
B-530, NCL, Jayant Project,
Distt. Singrauli,
MP

...Workman/Union

Versus

General Manager,
Jayant Project of NCL,
PO Jayant,
Distt. Singrauli,
MP

...Management

AWARD

Passed on this 10th day of February 2016

1. As per letter dated 25-7-2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-22012/84/2012-IR(CM-II). The dispute under reference relates to:

“Whether the action of the General Manager, Jayant Project of NCL in not revoking/ annulling the punishment imposed on Shri Sitaram Pandey, Crane Operator, even after acquittal of charges from the Hon’ble Court of law is legal and justified? To what relief the claimant is entitled for and from which date?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/5. Case of Ist party workman is that he was working on permanent post of Crane Operator with 2nd party. on 29-6-00, workman was asked by his superior to reach near canteen and unload certain goods from truck bearing No. UP-70/L-9030. Workman reached to the place along with a Khalasi namely Shri Ramdhari Kushwaha. The crane was parked at a distance of about 4 meter behind the truck. While making preparations for the unloading of the

material and while arranging proper positioning and support for the TMC to station, all of a sudden the Khalasi Ramdhari Kushwaha put TMC in reverse gear without any indication and caution causing the accident of helper who was standing between the tail end of the loaded truck and the TMC was crushed to death. It was unexpected action from Khalasi. He had no reason to reverse the truck when preparatory work for unloading was going on. Subsequent to said accident, the workman was implicated in criminal case for offence under section 304 IPC bearing Case No. 99/2000. That as per order dated 7-2-00, workman was suspended. Chargesheet was issued alleging misconduct under Clause 26.5, 26.22, 26.23, 26.28 & 26.43 of the standing orders applicable to 2nd party. In substance, management alleged that without seeking permission from Competent Authority, workman allowed unauthorized person to ply the vehicle. That workman was not supplied list of witnesses alongwith chargesheet or during the Enquiry Proceedings, his defence was prejudiced. Workman submitted reply to the chargesheet on 11-2-2000 denying charges against him. He prayed for withdrawal of charges. Shri M.B.Ram was appointed as Enquiry Officer on 29-2-2000. Shri P.Ghosh was appointed as Presenting Officer. Subsequently Shri V.K.Shrivastava was appointed as Presenting Officer. List of documents and list of witnesses was not supplied to workman. Workman was represented by Sheshmani Pannika. The enquiry was conducted in violation of principles of natural justice. Report of Enquiry Officer was not supplied to workman on 6-9-05, punishment of stoppage of 3 increments with cumulative effect was imposed against him.

3. JMFC vide judgment dated 14-9-06 exonerated workman on merit for offence under Section 304 IPC. Workman submitted representations to review order of punishment dated 6-9-05. The Disciplinary Authority while imposing punishment did not consider his past record. the appeal was not considered observing that leniency was shown while imposing punishment. That the punishment was imposed on recommendations of higher authorities, Dy. Chief Personal Manager. Workman reiterates his service record was unblemished. Enquiry Report was not given to him. Enquiry is vitiated. The findings of Enquiry Officer are perverse. He was implicated in false case. His defence was not appreciated. On such grounds, workman prays that punishment is disproportionate. On such grounds, workman prays to quash the punishment order dated 6-9-05 imposed on him.

4. 2nd party management filed Written Statement opposing claim of workman. 2nd party submits that workman was employed as crane operator. On 29-1-2000, he was deployed at Crane No.17C/2509 Mounting Crane TMC. Workman was directed to attend work at CSD canteen to load material from Private Truck from outside. Helper Ramdhari Kushwaha assisted workman. He loaded crane at distance of 4 meter from Truck. The workman left crane

leaving key on crane itself. The crane was landing upto 4.15 PM in same position. Shri Ramdhari Kushwaha climbed on the crane and reversed the crane without any indication. Shri Patiram Singh was working behind the truck. As train went reverse position hitting Patiram Singh General Mazdoor, he was crushed to death. Chargesheet was issued on 6-2-2000. Workman submitted his reply. DE was initiated as per order No.70. Shri N.B.Ram was appointed as Enquiry Officer, Shri P. Ghosh as Presenting Officer. Enquiry was conducted against workman, Defence counsel Sheshmani was allowed for his defence. 2nd party reiterates that the witnesses of management were cross-examined by co-worker. Workman did not adduce oral or documentary evidence in support of his defence. It is denied that enquiry was conducted in violation of principles of natural justice. That criminal case was constituted by State against workman. management had no role to play in the criminal case. Acquittal of workman in criminal case doesn't absorb him from Disciplinary proceedings initiated against him. standard of proof in DE and criminal case are different. On such ground, 2nd party submits that reference be answered in its favour.

5. On 26-9-14, Shri Pranay Choubey counsel for workman submitted that he does not want to adduce evidence on preliminary issue. Management also not adduced evidence on preliminary issue. Legality of enquiry was not challenged therefore the evidence was adduced on other issues. As legality of enquiry conducted against workman was not challenged, considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|--|
| (i) Whether the charges alleged against workman are proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) Whether the action of the General Manager, Jayant Project of NCL in not revoking/annulling the punishment imposed on Shri Sitaram Pandey, Crane Operator, even after acquittal of charges from the Hon'ble Court of law is legal and proper? | In Affirmative |
| (iii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. The legality of enquiry conducted against workman was not challenged. Chargesheet was issued to workman produced at Exhibit M-1. The charges against workman pertain to deliberately avoiding the work entrusted to him. Committing any act of indiscipline causing loss to the company, causing damage to the property of company allowing vehicle or machinery of company to unauthorized

person committing violation of standing orders. Exhibit M-2 is copy of application submitted by workman for withdrawal of charges Exhibit M-3,4,6 are memorandum of enquiry issued to workman. Exhibit M-7 is copy of Enquiry Proceedings, statements of management's witness Ramsharan, B.K.Singh, I.S.Rao are clear that the crane was taken by workman to the Truck for unloading materials. Helper Ramdhari Kushwaha had taken the crane reverse while 1st party workman had come down from crane and was discussing about unloading material from Truck. When helper Ramdhari taken the crane reverse, it dashed to the truck crushing mazdoor Patiram Singh. Statement of 1st party workman is recorded at Page 26,27 of Enquiry Proceedings. Workman in his statement in Enquiry Proceedings says on 29-1-00 around 3.30 PM, he had received order for unloading material from truck standing near canteen. He reached to the place. The crane was taken towards rear side of truck. The crane was shoot up. He asked attendant Ramdhari to place blocking material to block the wheels of crane for safety purpose. He got down from the crane and was talking the matter about unloading material. Helper Ramdhari was at crane. He had driven the crane. Workman had rushed to crane and switched off. After getting down, he saw that Patiram Singh was found dead. Re-appreciation of evidence is not permissible. The evidence of management's witness is clear that workman was crane driver. For unloading materials, crane was taken near to truck. The crane was driven reverse by Helper Ramdhari Kushwah. Workman had left the key at dashboard. Therefore helper Ramdhari Kushwah could drive the crane reverse back. The charge against workman includes that he left key of crane at dash board is supported by evidence in Enquiry Proceedings. The evidence is sufficient to prove the charges against workman. Therefore I record my finding in Point No.1 in Affirmative.

7. **Point No.2-** 1st party workman and management's witness Kedar Nath filed affidavit of their evidence on other issues. The evidence of workman Sitaram in his affidavit is on the point that after switching off engine of crane, he parked near the truck, he came down the crane and instructed Shri Ramdhari Kushwah to bring blocking material to block the wheels of the crane so that it may not move and thereafter was discussing with the helper/ driver of the truck as to manner in which the unloading process would be carried. Shri Ramdhari without any instruction or prior permission started the crane and moved the crane due to which helper of truck died. In his cross-examination, workman says on 29-1-06, he had taken vehicle near CHP Canteen. During enquiry proceeding, he has stated that Helper Ramdhari Kushwah has driven the crane. Management's witness Kedar Nath filed affidavit of his evidence. He was not cross-examined by the counsel for workman. Management's witness in his affidavit says workman was prosecuted by State Administration. His acquittal from criminal charges doesn't absorb the workman.

8. The order of punishment withholding 3 increments of workman Exhibit W-3 was passed on 6-9-05. The workman was acquitted in criminal case 99/02 as per judgment dated 14-9-2006 subsequent to the punishment of withholding 3 increments was imposed against him.

9. Learned counsel for Ist party Shri Pranay Choubey did not brought to my notice any citation that the acquittal in criminal case subsequent to the punishment imposed after enquiry invalidates the order of punishment.

10. Learned counsel for 2nd party Shri A.K.Shashi relies on ratio held in

“Case of Corporation of Nagpur versus Ramchandra G.Modak reported in AIR-1984 SC-626. Their Lordship held merely because accused in acquitted, the power of authority concerned to continue departmental inquiry is not taken away.”

The facts of present case are not comparable. The punishment was imposed much earlier to the acquittal of the workman in criminal case.

Next reliance is placed in case of South Indian Cashew Factories Workers Union versus Kerala State Cashew Development Corporation Ltd. and others reported in 2006(5)SCC-201. Their Lordship held Section 11-A applicable only in case of dismissal or discharge of a workman. Said section gives ample power to the Labour Court to reappraise the evidence adduced in the enquiry and also sit in appeal over the decision of the employer in imposing punishment but that section is applicable only in case of dismissal of workman.

The punishment of dismissal/discharge was not imposed against workman. Punishment of withholding 3 increments was imposed against workman. Therefore the evidence cannot be re-appreciated.

11. Copies of Award in R/117/97, R/38/90 are submitted by Shri A.K.Shashi. The facts and evidence in both cases are different. Both the cases pertain to the punishment of dismissal imposed against workman.

12. I may also mention that the charge in criminal case prosecuted against workman was for offence under Section 304-A IPC pertain to causing death by rash and negligent driving whereas charge in the enquiry conducted against him was leaving the key of crane in dash board unauthorisely allowing helper to drive crane causing death of the General Mazdoor Patiram Singh. The charge in criminal case and Departmental Enquiry were not identical therefore the acquittal of Ist party workman in criminal case doesn't relieve him from the charges alleged against him in Enquiry Proceedings. In view of ratio held in case 2006(5)SCC-201, the punishment of withholding 3 increments of workman cannot be said excessive. No interference is called for.

13. Learned counsel for workman Shri Pranay Choubey submits that departmental Enquiry was conducted against Shri Ramdhari Kushwah and punishment of withholding one increment was imposed against him. The punishment of withholding 3 increments of workman is excessive and discriminatory. In view of ratio held in 2006(5)SCC-201, the interference in order of punishment is not justified. For above reasons, I record my finding in Point No.2 in Affirmative.

14. In the result, award is passed as under:-

- (1) The action of the General Manager, Jayant Project of NCL in not revoking/ annulling the punishment imposed on Shri Sitaram Pandey, Crane Operator, even after acquittal of charges from the Hon'ble Court of law is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2016

का.आ. 516.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 105/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/03/2016 को प्राप्त हुआ था।

[सं. एल-22012/132/2011-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2016

S.O. 516.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of SECL, Baikunthpur Area, PO-Baikunthpur, SECL, Jhilmili, Sub-Area of Baikunthpur Area and their workmen, received by the Central Government on 09/03/2016.

[No. L-22012/132/2011-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/105/2011

The President,
Samyukta Koyla Mazdoor
Sangh (AITUC) Union,
Baikunthpur Area, PO Pandavpara,
Distt. Korea, Chhattisgarh

...Workman/Union

Versus

Chief General Manager,
SECL, Baikunthpur Area,
PO Baikunthpur, Distt. Korea,
Chhattisgarh

Sub-Area Manager, SECL,
Jhilmili Sub-Area of Baikunthpur Area,
PO Pandavpara (Patna),
Distt. Korea, Chhatisgarh

...Management

AWARD

Passed on this 15th day of February, 2016

1. As per letter dated 10-10-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/132/2011-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of the Chief General Manager, SECL, Baikunthpur Area and the Sub-Area Manager, Jhilmili Sub Area SECL, Distt. Korea (CG) in neither allowing to the workman in dispute Shri Surendra Pratap Singh for his duty we.f. 26-10-09 even after his application dated 26-10-09 not making payment from 26-10-09 to 15-12-09 due to procedural delay of management was legal and justified? To what relief the workman concerned is entitled to and from which date?”

2. After receiving reference, notices were issued to the parties. President of SKMS Union submitted statement of claim on behalf of Ist party workman on 29-11-2011. The case of Ist party is workman Shri Surendra Pratap Singh S/o Shri Vishwanath working as Sr. Clerk, he was arrested on 13-12-07 for offence under Section 302 IPC. Son of workman namely Rakshendra Pratap given its intimation in writing to Sub-Area Manager. The intimation on phone was also given. On application of workman, he was granted Casual Leave for the period 15-12-07 to 22-12-07. Workman was paid salary for the period 14-12-07 to 22-12-07. For purpose of securing bail, workman had requested attendance register. The certificate was issued by management about the attendance during the period from 14-12-07 to 12-8-09. Workman was in judicial custody in sub-jail at Surajpur. On 12-8-09, he was transferred to Central Jail, Ambikapur. On 21-10-09, he was acquitted by Additional Session Judge, Surajpur. On 26-10-09, workman submitted application for joining duty. He was permitted to join duty from 16-12-09. After his arrest, workman was under detention for more than 48 hours. Clause 28.9 of standing order provides for immediate suspension and payment of subsistence allowance. Workman was absent from duty for about 22 months. Management did not comply with clause 28.9 of standing order. He was not paid 50 % subsistence allowance. Workman submits that since he submitted

application on 26-10-09, till he was allowed to join duty on 16-12-09, he is entitled for full wages. The amount of Rs.47,355/- is claimed by workman.

3. 2nd party filed Written Statement opposing claim of workman. 2nd party did not dispute that workman was working as Sr. Clerk Grade I in Jhilmili Sub Area. Workman was granted leave from 14-12-07 to 21-12-07. He did not report for duty. Chargesheet for unauthorized absence was issued to workman on 16-2-08. Workman submitted representation dated 1-10-08, 5-3-09, 25-5-09 & 4-9-09 intimating management that he was in judicial custody for offence under Section 302/34 of IPC Criminal Case No. 54/2007. After receiving his communication, management did not take any action on the chargesheet issued to workman. Workman submitted application to resume duty on 26-10-09. The certificate issued by jail authority was also submitted along with application in respect of period of detention from 14-12-07 to 21-10-09. Copy of order passed in Criminal Case 65/08 by Ist Additional Session Judge, Surajpur, Distt. Surguja was produced. The workman alongwith other accused were prosecuted for offence under Section 302 IPC. Workman was acquitted on 21-10-09. On receipt of representation by workman, it was forwarded to headquarter of the company for further advice on 4-11-09. Said notesheet was received by Headquarters after taking legal advice of company Headquarter. Headquarter informed area management vide order dated 7-12-09 granting approval to permit the workman to resume duty. 2nd party submits that 41 days time required for receiving approval from Headquarter allowing workman for resuming duty is bonafide. Workman is not entitled to monetary benefits claimed by him.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| “(i) Whether the action of the management of the Chief General Manager, SECL, Baikunthpur Area and the Sub-Area Manager, Jhilmili Sub-Area SECL, Distt. Korea (CG) in neither allowing to the workman in dispute Shri Surendra Pratap Singh for his duty we.f. 26-10-09 even after his application dated 26-10-09 not making payment from 26-10-09 to 15-12-09 due to procedural delay of management was legal and justified?” | In Affirmative |
| (ii) If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

5. Term of reference pertains to non-payment of wages to workman for the period 26-10-09 to 15-12-09.

6. Workman filed affidavit of his evidence supporting contentions in statement of claim. That after his arrest, workman was granted leave for the period from 14-12-07 to 21-12-07. Workman was paid wages for the said period. He was not paid wages since 22-12-07. On his request, attendance certificate was issued by 2nd party. Intimation about his detention in jail was given to management on various dates. After his acquittal on 21-10-09, workman submitted application for joining duty on 26-10-09. He was allowed to join duty on 16-12-09. He claims wages for the period 26-10-09 to 15-12-09. Documents are produced at Exhibit W-1 to W-23. I will deal with documentary evidence at later part. In his cross-examination, workman says in criminal case, charges of burning his daughter in law by pouring kerosene were alleged against him. Charge was found false and workman was released from jail. On 26-10-09, he had submitted application for resuming duty. The application was submitted to inward clerk. On 16-12-09, he joined duty.

7. Management's witness Shri S.K. Mallik filed affidavit of evidence supporting contentions in statement of claim. The arrest and detention of workman in jail in criminal case for offence under 302 IPC is not disputed. Management's witness was not cross-examined. Several documents are produced by management. Parties are not in dispute about workman submitting application for joining duty on 25-10-09 and he was allowed to join duty on 16-12-09.

8. The documents produced by management Exhibit M-9 is chargesheet issued for unauthorized absence. Exhibit M-1 to 4 are applications submitted by workman on 10-10-08, 5-3-09, 25-5-09, 4-9-09 about his detention in jail and his inability to report on duty. Exhibit M-5 is application dated 26-10-09 M-6 is attendance certificate issued by Jail authorities. Exhibit M-6 is copy of judgment. Exhibit M-10 is copy of note sheet submitted to headquarter for allowing workman to join duty. Workman was allowed to join duty as per Exhibit M-1. Exhibit M-8 is order dated 15-12-09 allowing workman to resume duty. Exhibit W-18 is copy of voting card issued by Election Commission. The documents Exhibit W-2 to W-8 have no direct relevance to the point in controversy between parties. Workman has produced copy of judgment in Case No. 65/08 at Exhibit W-9. The application for resuming duty is produced at Exhibit W-10. Similar set of documents are produced by workman at Exhibit W-11 to W-17.

9. The substance of the evidence adduced by both parties is that workman submitted application for resuming duty on 25-10-09, he was allowed to join duty on 16-12-09. The question is whether workman is entitled to claim wages for intervening period. The evidence is clear that application received from workman was forwarded to headquarter for guidance and headquarter had allowed workman to resume duty as per order dated 15-12-09. Whether time required for allowing application of workman

is unreasonable and workman should be paid wages for the intervening period. Whether the period required for taking decision by the management of 2nd party and its headquarter is unreasonable, whether workman is entitled to claim wages. The meaning of reasonable given in Oxford Dictionary is fair, practical and sensible, acceptable and appropriate in particular situation. The evidence is clear that workman was arrested for offence under Section 302 IPC on 13-12-07. He was acquitted by Ist Additional Session Judge on 15-12-09. The application for resuming duty was given by workman on 26-10-09. After the application was forwarded to head office, the request of applicant was allowed on 15-12-09. Workman joined duty on 16-12-09 if the above circumstances are considered, time required for taking decision after advice from headquarter cannot be said unfair and unreasonable. No evidence is brought on record about unreasonable delay for taking decision by the management of 2nd party therefore claim of Ist party workman for wages for the period in question cannot be accepted.

10. I may quote ratio held by Shri A.K. Shashi in case between Management of Reserve Bank of India versus Shri Bhopal Singh Panchal reported in 1994-I-LLJ-642. The ratio in the case pertains to period of suspension pending criminal proceeding. The Competent Authority has to take into consideration circumstances of each case to decide as to how period of suspension has to be treated. The ratio has no bearing to the controversy between parties in present case. Workman was not suspended. There was no question of treating suspension period of Ist party workman rather workman is claiming recovery of wages for the period he submitted application for resuming duty on 25-10-09 till he was allowed to join duty on 16-12-09. For above reasons, I record my finding in Point No.1 in Affirmative.

11. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2016

का.आ. 517.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 106/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2016 को प्राप्त हुआ था।

[सं. एल-22012/130/2011-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2016

S.O. 517.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 106/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of SECL, Baikunthpur Area, PO-Baikunthpur, SECL, Jhilmili, Sub-Area of Baikunthpur Area and their workmen, received by the Central Government on 09/03/2016.

[No.L-22012/130/2011-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/106/2011

The President,
Samyukta Koyla Mazdoor
Sangh (AITUC) Union,
Baikunthpur Area, PO Pandavpara,
Distt. Korea, Chhattisgarh ...Workman/Union

Versus

Chief General Manager,
SECL, Baikunthpur Area,
PO Baikunthpur, Distt. Korea,
Chhattisgarh

Sub-Area Manager, SECL,
Jhilmili Sub-Area of Baikunthpur Area,
PO Pandavpara (Patna),
Distt. Korea, Chhattisgarh ...Management

AWARD

Passed on this 15th day of February, 2016

1. As per letter dated 10-10-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-22012/130/2011-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of the Chief General Manager, SECL, Baikunthpur Area and the Sub Area Manager, Jhilmili Sub Area SECL, Distt. Korea (CG) in non-payment of suspension allowances to Shri Surendra Pratap Singh Sr. Clerk Grade I (SLU) during the period of his judicial custody from 23-12-07 to 21-10-09 without suspension was legal and justified? To what relief the workman concerned is entitled to and from which date?”

2. After receiving reference, notices were issued to the parties. President of SKMS Union submitted statement of claim on behalf of Ist party workman on 29-11-2011. The case of Ist party is workman Shri Surendra Pratap Singh S/o Shri Vishwanath working as Sr. Clerk, he was arrested

on 13-12-07 for offence under Section 302 IPC. Son of workman namely Rakshendra Pratap given its intimation in writing to Sub-Area Manager. On application of workman, he was granted Casual Leave for the period 15-12-07 to 22-12-07. Though workman had applied for Leiu leave, workman was paid salary for the period 14-12-07 to 22-12-07. Workman was in judicial custody till his acquittal on 21-10-09. Workman was released from jail after his acquittal. He submitted application for joining duty on 11-1-10. He had also submitted application for payment of subsistence allowance as per Clause 28.9 of the standing order for recovery under Section 33(C)(2). The amount was not paid. Workman reiterates that he is entitled to 50 % subsistence allowance as per clause 28.9 of the standing order applicable to the 2nd party. Workman was in judicial custody after his arrest for offence under Section 302 IPC. Workman was allowed to join duty on 15-12-09. He claims subsistence allowance for the period 23-12-07 to 21-10-09 as per clause 28.9 of the standing order.

3. 2nd party filed Written Statement opposing claim of workman. 2nd party did not dispute that workman was working as Sr. Clerk Grade I in Jhilmili Sub Area. Workman was granted leave from 14-12-07 to 21-12-07. He did not report for duty. Any information was not received from his side. He was unauthorisely absent without intimation or sanctioned leave. In the circumstances, management had no option but to issue chargesheet dated 16-2-08 for unauthorized absence. Workman submitted representation dated 1-10-08, 5-3-09, 25-5-09 & 4-9-09 intimating management, he was in judicial custody for offence under Section 302/34 of IPC Criminal Case No. 54/2007. After receiving his communication, management did not take any action on the charge sheet issued to workman, that workman did not inform management about his arrest in judicial custody till receipt of charge sheet issued to him for unauthorized absence. Workman submitted application to resume duty on 26-10-09. The certificate issued by jail authority was also submitted along with application in respect of period of detention from 14-12-07 to 21-10-09. Copy of order passed in Criminal Case 65/08 by Ist Additional Session Judge, Surajpur, Distt. Surguja was produced. The workman was tried by State of Chhattisgarh on charges that Shri Premkumar, S/o Shri Surendra Pratap Singh was carried with Rambai about 12 years back from date of incident. On 3-11-07, Rambai W/o Premkumar and daughter in law demanded dowry of Rs. One Lakh from the parents of daughter in law. Pouring kerosene in her daughter in law was set on fire. Daughter in law was admitted in Holly Cross Hospital where she was dead. After receiving representation of workman for joining duty, application was forwarded to Headquarter of the company at Bilaspur for further advice on 4-11-09. Said notesheet was received by Headquarters after taking legal advice of company Headquarter. Headquarter informed area management vide order dated 7-12-09 granting approval to permit the

workman to resume duty. 2nd party submits that workman was not suspended by management. He was detained after his arrest. Workman was in judicial custody. Management has no role with his arrest or detention. Workman was not suspended by management. Workman is not entitled to suspension allowance. The delay of 41 days granting approval to resume duty to workman is bonafide. On such ground, 2nd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|--|
| (i) Whether the action of the management of the Chief general Manager, SECL, Baikunthpur Area and the Sub Area Manager, Jhilmili Sub Area SECL, Distt. Korea (CG) in non-payment of suspension allowances to Shri Surendra Pratap Singh Sr. Clerk Grade I (SLU) during the period of his judicial custody from 23-12-07 to 21-10-09 without suspension was legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

5. Term of reference pertains to denial of suspension allowance to the workman for the period 23-12-07 to 21-10-09 as per Clause 28.9 of the standing order. The documents produced by management Exhibit M-1 to M-11 are admitted. Documents pertains to Exhibit M-9 is chargesheet. No action was taken on chargesheet issued to workman for unauthorized absence. Exhibit M-1 is application submitted by workman for joining duty. Exhibit M-2 is application dated 5-3-09 requesting management to allow workman to join duty. Exhibit M-3 is application dated 25-5-09. Exhibit M-4 is application dated 4-9-09. Workman had informed management about his inability to join duty. Exhibit M-5 is application dated 26-10-03 requesting management to allow him to join duty. Exhibit M-6 is certificate issued by Jain authorities about detention of workman in jail. Workman was released from jail after his acquittal in criminal case. Exhibit M-7 is copy of judgment in Criminal case No. 65/08. Exhibit M-10 is notesheet whereby workman was permitted to join duty. Exhibit M-11 is letter sent by management along with notesheet allowing workman to join duty. Exhibit M-8 is order allowing workman to join duty. Workman has also produced similar documents at Exhibit W-10, 11, 12, 13 & 14. As per Exhibit W-15, workman had submitted application for recovery of money due from employer. The documents Exhibit W-16, 17 are the application submitted claiming amount due to recovery from the management.

6. Workman filed affidavit of his evidence supporting contentions in statement of claim. That after his arrest, workman was granted leave for the period from 14-12-07 to 21-12-07. Workman was paid wages for the said period. He was not paid wages since 22-12-07. Workman was detained in jail for offence under Section 302 read with 34 IPC during the period 14-12-07 to 21-10-09. He claims to be entitled for subsistence allowance. From his evidence in chief, documents Exhibit W-18 to W-23 are admitted in evidence. In his cross-examination, workman says in criminal case, charges of burning his daughter in law by pouring kerosene were alleged against him. Charge was found false and workman was released from jail on 26-10-09. The copy of attendance register produced by him are not bearing signature of the authorities. Workman submits that chargesheet Exhibit M-9 was not received by him.

7. Management's witness Shri S.K. Mallik filed affidavit of evidence supporting contentions in statement of claim. The arrest and detention of workman in jail in criminal case for offence under 302 IPC is not disputed. Management's witness in his cross says on 16-2-08, chargesheet was issued to workman but any action was not taken against him as workman was prosecuted in criminal case. After judgment in criminal case, workman was allowed to resume duty. The service conditions of workman are covered by certified standing orders.

8. The dispute between parties pertains to recovery of subsistence allowance as per clause 28.9 of standing order. It is dispute between parties whether the workman is entitled to subsistence allowance as per clause 28.9 of certified standing order. Clause 28.9 of certified standing order provides-

"notwithstanding the provisions contained in the standing orders as above, the management reserves right to suspend a workman being prosecuted in a court of law for any grave criminal offence involving moral turpitude of murder until the disposal of the trial. The workman concerned shall be entitled to 50 % of wages as subsistence allowance. In case the above workmen is finally acquitted, he would be paid full wages for the period of suspension."

The pleadings and evidence of Ist party are silent that the workman was suspended after he was acquitted in criminal case. Clause 28.9 provides that the management reserve right to suspend the workman being prosecuted in court for criminal act involving moral turpitude. Said right was not exercised by management. Workman was not suspended. When workman was not suspended and he was allowed to resume duty after his acquittal in criminal court, the claim of workman for subsistence allowance under Clause 28.9 of standing order cannot be accepted.

9. Learned counsel for Ist party Shri R.C. Shrivastav submits that clause 28.9 of the standing order gives right to suspend workman on his prosecution in criminal court

for the offence involving moral turpitude, murder etc. it was obligatory for management to suspend workman. The workman is deemed to have been suspended and therefore workman be entitled to subsistence allowance as per clause 28.9 of standing order. In support of above argument, reliance is placed in

Case of Prakash Kumar Sahu versus Union of India and others reported in 2012(2)MPLJ-347. Ratio held by their Lordship is on the point suspension of Government Servant on ground of arrest in criminal case. There is no break in service, a non duty period cannot be excluded from counting the said period of suspension for the purpose of pension. Decision of the Competent Authority for not treating the period of suspension having condoned the break in service being patently erroneous cannot be given approval.

The ratio held in the case doesnot cover the controversy between parties as workman was not suspended, no question of revocation of suspension order is involved. Workman is claiming suspension allowance. Above clause in standing order gives power to the management for suspending employee involved in criminal case of moral turpitude etc. workman cannot be deemed suspended. Clause 28.9 is silent about the deeming suspension. The argument advanced by Shri R.C. Shrivastava for workman cannot be accepted. For above reasons, I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management of the management in non-payment of suspension allowances to Shri Surendra Pratap Singh Sr. Clerk Grade I (SLU) during the period of his judicial custody from 23-12-07 to 21-10-09 without suspension is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2016

का.आ. 518.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 133/1995) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2016 को प्राप्त हुआ था।

[सं. एल-22012/185/1994-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2016

S.O. 518.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 133/1995) of the Central Government Industrial Tribunal-cum-

Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of WCL, Baikunthpur Area, PO-Baikunthpur, SECL and their workmen, received by the Central Government on 09/03/2016.

[No. L-22012/185/1994-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/133/95

Smt. Saira Banoo, wife,
Sameer Ali & Javed Ali- sons &
Ammena Banoo, daughter- LRs of
Shri Shakir Ali, Pumper, Chandametta Colliery,
Eagle Radios, Main Road,
Chandametta, Post Parasia,
Distt. Chhindwara

...Workman/LRs

Versus

Manager, WCL,
Chandametta colliery,
Post Chandametta,
Chhindwara (MP)

...Management

AWARD

Passed on this 12th day of February 2016

1. As per letter dated 12-7-95 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/185/94-IR (C-II). The dispute under reference relates to:

“Whether the action of the Manager, Chandametta Colliery of WCLtd., Pench area, PO Chandametta, Distt. Chhindwara (MP) in terminating the services of Shri Shakir Ali, S/o Ahmad Khan, Pump Khalasi, Chandametta Colliery vide his order dated 10-5-82 is justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/2. Workman died during pendency of reference. His LRs are brought on record. case of deceased workman was that he was working from 1972 at Chandametta colliery. He was working with devotion. For some reasons, he was absent from duty from 20-3-82. On 10-5-82, his services were terminated as per clause 19 of standing orders. His services were terminated without chargesheet on enquiry in violation of principles of natural justice. Workman repeatedly requested for allowing him on duty was not considered. On such contentions, workman submits that

order of his termination is illegal. He prays for reinstatement with backwages.

3. Management of 2nd party submitted preliminary objection at Page 5/1 to 5/2 submitting that workman was terminated on 10-5-82. The dispute was raised submitting application before ALC on 9-6-92. The Government has referred dispute vide order dated 12-7-95 is not tenable. The statement of claim signed by Shri P.K.Bannerjee has no locus standi is also not tenable.

4. Detailed Written Statement is filed at Page 6/1 to 6/3. 2nd party submits that deceased workman Shakir Ali was permanent employee of Chandametta colliery as Pump Khalasi. He was absent from duty without permission from 20-3-82. His services were terminated as per clause 19 of certified standing orders on 10-5-82 for his absence more than 30 days. The dispute is raised after lapse of more than 13 years is not tenable. It is reiterated that when workman was unauthorisely absent, his services were terminated as per clause 19 of standing orders. 2nd party contends that if Tribunal hold that enquiry is necessary, management be sought permission to lead evidence about unauthorized absence of workman. The action of management is legal and proper.

5. Workman filed rejoinder at Page 8/2 to 8/3 reiterating his contentions in statement of claim.

6. After amendment impleading LR's of deceased workman by 1st party, additional Written Statement is filed by management reiterating that dispute raised after 13 years is not tenable.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|--|
| (i) Whether the action of the Manager, Chandametta Colliery of WCLtd., Pench area, PO Chandametta, Distt. Chhindwara (MP) in terminating the services of Shri Shakir Ali, S/o Ahmad Khan, Pump Khalasi, Chandametta Colliery vide his order dated 10-5-82 is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman/LR's are not entitled to any relief. |

REASONS

8. The term of reference pertains to legality of the order of termination of service of deceased workman. workman filed affidavit of his evidence, he was not cross-examined. Workman died during pendency of reference proceeding. His LR's are brought on record. Smt. Saira Bano, wife of deceased Shakir Ali and Sameer Ali son of deceased

workman filed affidavit of evidence. Affidavit of Shri Saira Bano was not pressed. Sameer Ali in his cross-examination claims ignorance about the service of his deceased father. Shri Javed son of deceased workman in his affidavit of evidence says his father was repeatedly working with 2nd party from 1972. Because of illness, he did not attend duty. Intimation about his illness was given to the management. his father was terminated without notice. Retrenchment compensation was not paid. In his cross-examination, Shri Javed says affidavit of his evidence is filed as per the information he received from his father when he attained 18 years of age. He had not seen any documents of service of his father. When his father was in service of WCL, all family members were receiving treatment in company hospital. His father was working in pench area of WCL. Burkui hospital is at 3kms distance from pench area. Medical facility is available in said hospital. He was unable to tell in 1982 period of his father attending duties and absence from duty.

9. Management filed affidavit of evidence of Personal Manager Abdul Hakim but he did not appear for his cross-examination. Management did not examine any witness to substantiate its contentions as workman was proceeded exparte. Termination order of workman is not produced. As per ordersheet dated 27-5-08, right of workman to adduce evidence was closed. In his statement of claim, workman has contented for some reasons he was absent from 27-3-82. His services were terminated as per order dated 10-5-82 as per clause 19 of standing orders therefore non production of order of termination of service of workman cannot be said vital. Copy of standing order is produced on record. Clause 19 of standing order provides- if workman remains absent for more than 30 days without giving intimation, his services would automatically stand terminated.

10. Learned counsel for workman Shri R.K.Soni submits that clause 18 of standing order provides about the misconduct. Clause 18(d) of the standing order pertain to unauthorized absence of workman as misconduct. Shri R.K.Soni emphasized that case of deceased workman is covered under Clause 18(b) of standing order. His services were terminated without notice therefore order of termination is illegal. If clause 18 & 19 of the standing orders are carefully considered, clause 19 of standing order deals with absence of the employee without intimation to the management for period more than 30 days when services of workman are automatically terminated. The standing order are not challenged before Competent Authorities therefore standing orders are binding on deceased workman. the unauthorized absence covered under Clause 18 appears different from the absence more than 30 days without intimation to the management covered under Clause 19 of standing orders. Therefore the action of the management cannot be said illegal.

11. Besides above, Shri A.K.Shashi for management submit that services of workman were terminated as per clause 19 of the standing order on 10-5-82, the dispute was raised before ALC in 1992 and reference is made in 1995 after 13 years. The reference is not tenable. In support of his argument, Shri A.K.Shashi relies on ratio held in

Case of Assistant Executive Engineer, Karnataka versus Shivalinga reported in 2002-I-LLJ-457. Their Lordship dealing with delay and latches- delay of more than 9 years in approaching Labour Officer held in cases of serious dispute as to relationship of employer and employee, records of employer being relevant would come a way of maintenance of same situation of such nature renders claim stale.

In case between Indian Iron and Steel Co.Ltd versus Prahlad Singh reported in 2001(1)SCC-424. Their Lordship dealing with the dispute raised after 13 years of termination of service, no reasonable explanation given for such delay, it was held that Industrial Tribunal rightly refused to grant any relief.

In present case, as per pleading in Written Statement, the dispute was raised before ALC in 1992 after lapse of 10 years the delay is not explained. The dispute raised by workman is rendered stale.

12. Shri A.K.Shashi further relies on ratio held in

Case between New India Assurance Company Ltd. versus Vipin Beharilal Srivastava reported in 2008(3)SCC-446. Their Lordship held proper mode for obtaining sick leave, sick leave can be granted only on production of Medical Certificate from Registered Medical Practitioner.

Ist party has not adduced evidence about deceased workman given intimation about his absence to the management. Any medical certificate is not produced therefore action of management cannot be said illegal. For above reasons, I record my finding in Point No.1 in Affirmative.

13. In the result, award is passed as under:-

- (1) The action of the Manager, Chandametta Colliery of WCLtd., Pench area, PO Chandametta, Distt. Chhindwara (MP) in terminating the services of Shri Shakir Ali, S/o Ahmad Khan, Pump Khalasi, Chandametta Colliery vide his order dated 10-5-82 is proper and legal.
- (2) Workman/LRs are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2016

का.आ. 519.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 252/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 09/03/2016 को प्राप्त हुआ था।

[सं. एल-22012/370/1998-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 9th March, 2016

S.O. 519.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 252/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of SECL, and their workmen, received by the Central Government on 09/03/2016.

[No. L-22012/370/1998-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/252/99

Secretary,

Bhartiya Koyla Khadan Mazdoor Sangh (BMS),

C/o SECL Hqrs, Seepat Road,

Bilaspur (MP)

...Workman/Union

Versus

Chairman cum Managing Director,

SECL Hqrs., Seepat Road,

Bilaspur (MP)

...Management

AWARD

Passed on this 5th day of February, 2016

1. As per letter dated 23-6/9-7-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/370/98/IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of SECL in reducing the annual leave of Security Guards from 18 days in a year to 8 days in a year from 1994 is justified? If not, to what relief is the concerned employees are entitled?”

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 8/1 to 8/2. Case of Ist party Union is that all monthly rated employees posted in SECL Hqr. Bilaspur including security personnel/ Security Guard were enjoying 18 days holidays in a calendar year right from the formation of SECL from the year 1986 till 1993. In the year 1994, management of SECL Hqr. Bilaspur issued office order dated 28-4-94

bifurcating the monthly rated employees in 2 groups on their duty hours (1) whose working hours is 6 ½ hours and (2) employees whose duty hours was 8 hours a day. Employees with duty hours of 6 ½ hours were entitled to get 18 holidays and those whose duty hours was 8 hours a day were put to disadvantageous condition by reducing their holidays from 18 to 8 in a calendar year. By issuance of above said order, the service conditions of 68 security Personnel were affected. That after issuance of the aforesaid order dated 28-4-94, the management denied the Security Personnel to enjoy 18 days holidays from 1994. Union tried to convince management but was of no use. Secondly the dispute has been raised.

3. Ist party Union further submits that the management of SECL by issuing the order affecting change in service conditions not consulted the workman or Union under IR system. No notice of change under section 9-A of ID Act was issued as the Leave with wages and holidays comes under service condition as laid down in Schedule IV of ID Act, 1947. It is alleged that the management adopted pick and choose method. SECL Hqr. review their decision in similar case like Security Personnel and re-extended 18 holidays facility to a group of employees like Telephone Operators whose duty hours is also 8 hours like Security Personnel. On such ground, the Union prays that facility of 18 holidays be restored and triple wages of 10 days holidays be paid with 18 % interest.

4. 2nd party management filed Written Statement at Page 13/1 to 13/12 opposing claim of Union. 2nd party submits that coal mines were owned by Private owners. All the Coal Mines were nationalized as per the Coal Mines Act 1972 to ensure the rational co-ordinated and scientific development and utilization of the coal resources. In order that the ownership and control of such resources are vested in the State and thereby so distributed as best to subserve the common good. The Union of India took under its control the regulation and development of coal mines for the purpose of general superintendence, direction, control and management of the affairs and business of a coalmine. For proper administration and operation of the mines, different companies and subsidiary companies were established. The service condition of such employees were different. The Government had constituted Central Wage Board for Coal Industry. Both the workman and the management appeared before the Wage Board and after examining cases of both parties, the Wage Board submitted its recommendations fixing service conditions of employees and wages. The recommendations of wage board were accepted by Central Government. The wage scale were fixed taking into consideration of 8 hours working days. Wages were not fixed for 6 ½ hours working per day. That NCDC is public sector company and Government colliery followed Central Govt. Pay Scale and working pattern which resulted in following Central Govt. pattern of working hours and holidays.

5. It is further contented that due to some misunderstanding, ignorance or oversight in some collieries of NCDC, a wrong working hours of clerical staff were adopted as 6 ½ hours and holidays were given on Government pattern. It was stopped after nationalization of mines. That thousands of workers who were working 8 hours a day and having 8 holidays protested against the illegal benefit given for few selected workers. It was necessary to have common working hours, service conditions, pay scales, working in the same industry. Any discrimination is impermissible under industrial jurisprudence and service law. That uniform policy was also allowed under the Factories Act, Mines Act, Shop and Establishment Act etc. The management was trying to correct the imbalance advantage enjoyed by few persons. The employees in dispute are covered by provisions of Mines Act.

6. The service conditions of employees working in coal industry are covered by NCWA executed time to time. For implementation of provisions of NCWA, there is committee known as JBCCI. Said Committee used to have equal strength of members from various recognized Central Trade Unions as well as management. Joint Consultation Committee meeting held at corporate level on 3-6-88, 2-9-88. Representatives of 3 Central Unions were present. The representative of those Unions considering the stand of management found that the provisions of Mines Act doesnot require notice of change under Section 9-A of ID Act. If demand of Union is admitted, lacks of workers will come up with similar demand. It may be difficult to resist such claim. It created total unrest in the industry. In SECL, there were 95 mines comprising 12 Areas and sub areas in each mine. Security Personnel were deployed to ensure safety and security of the company property. Security Personnel are liable for transfer to the collieries and other establishments. In every colliery, only 8 paid holidays are allowed. The Security Personnel in the Corporate office who were by mistake allowed 18 paid holidays. In order to avoid such situation, management taken appropriate action.

7. 2nd party also refers to clauses under NCWA-I of 1974, NCWA-II of 1979, NCWA-III of 1983, NCWA-IV of 1989, NCWA-V of 1991. The existing holidays were continued at present. 2nd party has referred to ratio held in various cases and reiterates that it was not necessary to change notice under Section 9A. The Security Personnel are enjoying 8 paid holidays from 1984. Section 9-A of ID Act is also attracted. It is also submitted that the services of staff are covered by Clause 11 of the standing orders. The NCDC practice has become defunct after nationalization of the coal mines. The wage Board has recommended 8 paid holidays was accepted by government. The facility of Gazetted Holidays cannot be claimed as a matter of right by employees.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---|
| (i) Whether the action of the management of SECL in reducing the annual leave of Security Guards from 18 days in a year to 8 days in a year from 1994 is justified? | In Affirmative |
| (ii) If not, to what relief the workman is entitled to?" | Workmen are not entitled to any relief. |

REASONS

9. **Point No.1-** The terms of reference pertains to reduction of annual leave from 18 to 8 from 1994 by management of SECL. The Union has filed affidavit of Shri M.P.Jangde supporting claim of workman that the dispute pertains to 18 paid holidays/ National holidays, festival to Security Guards reduced to 8 paid holidays in 1994. In the year 1984, details of 18 paid holidays are given, the details of office orders of 20-12-89, 1-1-91, 24-12-91, 15-12-92, 31-12-93 are submitted alongwith affidavit. The order dated 20-4-94 issued by the management reducing paid holidays to 8 is produced. In his cross-examination, the witness of Union Shri Jangde says that the dispute pertains to 68 persons working in security department. All those persons were members of Union. At the time of his evidence, 15 employees were members of Union. The employees connected with Union are working with Security Guard, some of them as security sub inspectors. The witness was unable to tell in 1994 on which post the employees connected with dispute were working. Witness was unable to tell the employees in telephone departmental monthly rated employees, paid leave were reduced to 8. The working hours of Security employees are 8 hours. Names of 68 workers are not shown in the order of reference. He claims ignorance whether after nationalization, the coal mines were managed and controlled by NCDC. Whether the service conditions of employees working in NCDC were different. The witness has admitted constitution of National Wage Board for Coal Wage Industry. The Wage Board recommended working 8 hours per day, 48 hours in a week. The witness was unable to tell about the working days of employees in subsidiary companies. The list of holidays issued by management 18 holidays to the employees working on monthly basis.

10. Management filed affidavit of evidence of Shri Narendra Prasad Singh he not appeared for his cross-examination. Management filed affidavit of evidence of witness Shri Hemant Jha supporting contentions of management in Written Statement. In his cross-examination, management's witness claims ignorance whether employees connected with dispute were getting 18 paid holidays till 1993. As per order Exhibit M-7 the employees were allowed 8 days paid holidays. Order Exhibit M-7 was issued by Personnel Manager Shri B.K.Jahan- the list of

national holidays issued by administration. The witness was unable to tell whether National Holidays are reduced from 18 to 8.

11. The affidavit of Shri Sanjay Kumar Jha is filed but the witness had not appeared for his cross-examination.

12. Documentary evidence produced on record Exhibit W-1(a) order dated 20-12-89 of 16 paid holidays in SECL, Exhibit W-1(b) order dated 1-1-91 of 16 paid holidays, Exhibit W-1(c) order dated 24-12-91 of 18 paid holidays, Exhibit W-1(d) order dated 15-12-92 of 17 paid holidays, Exhibit W-1(e) order dated 31-12-93 of 19 paid holidays, Exhibit W-1(f) order dated 31-12-94 of 18 paid holidays, Exhibit W-1(g) order dated 31-12-95 of 18 paid holidays in SECL. Exhibit W-2 is office order dated 27-4-94 issued by SECL office to Chairman cum Managing Director. Exhibit W-3 is copy of Section-9(A) of ID Act, Exhibit W-4 is office order dated 18-8-95. 8 employees were allowed to avail 16 paid holidays and 2 days Restricted Holidays. Management has produced documents Exhibit M-1 to M-2 appointment orders Clause iii of those appointment orders shows that service conditions of employees are covered by Model Standing Orders. Exhibit M-3 is office order dated 1-1-1990 issued by general Manager of SECL allowing 8 paid holidays to the employees. Exhibit M-4,5,6 are orders regarding 8 paid holidays. Exhibit M-7 is order dated 27-4-94 directing that employees attending 8 hours duty will not be entitled for 18 days holidays.

13. Union Secretary did not attend case after the case was fixed for argument repeatedly. Shri A.K.Shashi for management submits that the service conditions of the employees in SECL are covered by NCWA, standing orders, provisions of Mines Act, Shop and Establishment Act providing 8 hours working a day, 48 hours working a week. Management has brought uniformity. The service conditions of employees are not changed as the working hours are provided under Mines Act, Standing Orders etc. Union Secretary remained absent and his argument on above point are not advanced.

14. Considering documents Exhibit M-1, M-2, service conditions of employees are covered by Model Standing Orders. The evidence adduced by Union doesnot show any rational to hold that the reduction of paid holidays from 18 to 8 is unjustified.

15. Shri A.K.Shashi relied on ratio held in

Case between M/S Saxby and Farmer (India) versus workmen reported in AIR-1975-SC-534. Their Lordship dealing with the dispute pertain to holidays, public utility service held it is generally accepted that there are too many public holidays in our country. When the need for industrial production is urgent and paramount, it may be advisable to reduce the number of such holidays in industrial concerns. It cannot be disputed that a necessary step in the

direction of increasing the country's productivity is the reduction of number of holidays.

Considering evidence discussed above and ratio held in above cited case, I record my finding in Point No.1 in Affirmative.

16. In the result, award is passed as under:-

- (1) The action of the management of SECL in reducing the annual leave of Security Guards from 18 days in a year to 8 days in a year from 1994 is proper and legal.
- (2) Workmen are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 520.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 1423/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-41011/2/2004-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 520.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1423/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10/03/2016.

[No. L-41011/2/2004-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th January, 2016

Reference: (CGITA) No-1423/2004

1. The Divisional Railway Manager,
Western Railway,

Pratapnagar,
Baroda-390004

...First Party

Vs.

Their Workmen
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda

...Second Party

For the First Party : Sh.H.B. Shah, Advocate

For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 41011/2/2004-IR(B-I) dated 21.06.2004 referred the dispute for adjudication to the Industrial Tribunal, Baroda(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the union for assigning the seniority of Shri. H.J. Gupta and Shri SagheluAnoop from the date of their engagement in services as Gangman in Engineering Department and to give the dues to concerned workmen are entitled to from which date?”

2. This reference dates back to 21.06.2004. First party filed the vakilpatra (Ext.3) of his advocate on 17.04.2006 despite service and giving numbers of opportunities to second party, did not prefer to submit the statement of claim. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 521.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 794/2004) (05/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-41011/39/2002-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 521.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 794/2004) (ITC No. 05/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10/03/2016.

[No. L-41011/39/2002-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th January, 2016

Reference : (CGITA) No. 794/2004

Reference : (ITC) No. 05/2003

1. The Sr. Divisional Electrical Engineer (TRO),
Western Railway,
Pratapnagar,
Baroda-390004
2. The Divisional Railway Manager,
Western Railway,
Pratapnagar,
Baroda-390004

...First Party

Vs.

Their Workmen
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole,
Kothi,
Baroda-390001 (Gujarat)

...Second Party

For the First Party : Sh K.J. Parikh, Advocate

For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/39/2002-IR(B-I) dated 23.01.2003 referred the dispute for adjudication to the Industrial Tribunal, Baroda(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Western Railway in not making proper fixation of pay and not given arrears to the eligible employees Shri Sudhir V. Pradhan Fitter Gr.II Shri Yakub Mohammed, Fitter Gr. III ; Shri Suresh S. Makwan, Fitter Gr. III as well as no payment to

Shri Anil Patel, Ex-Khallasi for 67 hrs. is proper, legal and justified? If not, what relief the concerned workmen are entitled and from which date?”

2. This reference dates back to 23.01.2003. Despite first party submitted vakilpatra by Kunjbela J. Parekh but second party despite service did not prefer to submit the statement of claim.

Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 522.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 1421/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-41011/1/2004-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 522.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1421/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10/03/2016.

[No. L-41011/1/2004-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th January, 2016

Reference : (CGITA) No. 1421/2004

1. The Divisional Railway Manager,
Western Railway,

Kothi Compound,
Rajkot

...First Party

Vs.

Their Workman
Sh. Kishor Ojha,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Near Vishwakarma Temple,
Jawahar Chowk, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : -

For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/1/2004-IR(B-I) dated 21.06.2004 referred the dispute for adjudication to the Industrial Tribunal, Rajkot(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Divisional Rail Manager, Western Railway, Rajkot in awarding punishment of removal of service and on mercy appeal reinstating Shri Kishore Ojha, Ex. F/man, LF, Sabarmati, Ahmedabad a class-III employee, to the post of class IV category is justified and legal? If no, what relief the workman is entitled?”

2. This reference dates back to 21.06.2004. Second party submitted the statement of claim Ext.3 on 27.03.2006 first party also submitted written statement Ext. 6 on 30.01.2009. Despite giving dozens of opportunities to second party to lead their evidence, they did not prefer to lead their evidence. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 523.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 5/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-12012/248/2000-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 523.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 5/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 10/03/2016.

[No. L-12012/248/2000-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 12th January, 2016

Reference : (CGITA) No. 5/2006

1. The Zonal Manager,
State Bank of India,
Zonal office,
Opp. New SAchivalaya,
Sector No.10,
Gandhinagar (Gujarat)
2. The General Manager,
State Bank of India,
Main Branch,
Lal Darwaja,
Ahmedabad
3. The Branch Manager,
State Bank of India,
Palanpur Branch,
Opp. Jua Gunj Bazar,
Palanpur (Banaskantha)

...First Party

Vs.

Their Workman
Sh. Parshottambhai Mohanbhai Makwana
Through the General Secretary,
Shramjivi Kamdar Sangh,
Dhal Vas,
Mesari Vas,
Palanpur (Banaskantha)

...Second Party

For the First Party : Sh. B. M. Joshi, Advocate

For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 12012/248/2000-IR(B-I) dated 05.01.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of state Bank of India, Palanpur Branch in orally termination the services of Shri Parshotambhai Mohanbhai Makwana w.e.f. 1.6.99 is justified or not? If not, what relief the applicant is entitled to and from which date?”

2. This reference dates back to 05.01.2006. All the parties were served by registered post. Acknowledgement were received. First party State Bank of India also filed the Vakalatnama (Ext.9) but second party did not turned up to file the statement of claim. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 524.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कार्पोरेशन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 1010/2004) (22/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-12012/223/15-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 524.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1010/2004) (ITC No. 22/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the management of Corporation Bank and their workmen, received by the Central Government on 10/03/2016.

[No. L-12012/223/15-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 7th January, 2016

Reference : (CGITA) No. 1010/2004

Reference : (ITC) No. 22/1996

1. The Manager,
Corporation Bank,
Dhebarbhai Road Branch,
Dhebarbhai Road,
Rajkot- 360002 ...First Party

Vs.

Their Workman
Shrr. Jaydevsinh G. Jadeja,
Shri Momi Ashish,
Anand Nagar,
Qtr. No. E-62,
Rajkot-360002 ...Second Party

For the First Party : Shri M.K. Patel, Advocate

For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 12012/223/15-IR(B-I) dated 17.04.1996 referred the dispute for adjudication to the Industrial Tribunal, Rajkot (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the Corporation Bank, Rajkot in termination the services of Shri Jaydev Singh G. Jadeja, Peon at the Dhebarbhai Road Branch, Rajkot w.e.f. 20.10.1992 just, valid & legal? If not, to what benefits the workman is entitled for and what directions are necessary in the matter?”

2. This reference dates back to 17.04.1996. R.C. Associates, a legal firm filed the vakilpatra on behalf of the first party. Second party was also served and submitted statement of claim (ext.4) ON 01.07.1997 later on a legal firm Upadhyay & Upadhyafiled vakilpatra on behalf of the first party and also submitted written statement (Ext. 14).

3. A number of opportunities were given to lead his evidence but he did not come forward to lead his evidence. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 525.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 70/2004) (19/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-41012/131/97-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 525.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 70/2004) (ITC No. 19/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10/03/2016.

[No.L-41012/131/97-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 8th January, 2016

Reference : (CGITA) No. 70/2004

Reference : (ITC) No. 19/1998

1. The General Manager,
Western Railway,
Churchgate, Mumbai-400001
 2. The Chief Workshop Manager,
Western Railway, Loco workshop,
Dahod-389160
- ...First Party

Vs.

Their Workman
Through the Secretary,
Paschim Railway Karmachari Parishad,
C/o. Shri K.C. Sharma,

Quarter No. 101/L.,
'C' Site, Freelanganj,
Dahod-389160

...Second Party

For the First Party : Sh. H.B. Shah, Advocate

For the Second Party : Sh. B.K. Sharma, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 41012/131/97-IR(B-I) dated 17.03.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of chief workshop Manager, Western Railway, Loco workshop, Dahod in denying promotion to Shri N.B. Makwana to the post of Shop Suptd. And promoting his juniors to the above post in the preceding years is legal and justified? If not, to what relief the concerned employee is entitled to?”

2. This reference dates back to 17.03.1998. Second party submitted the statement of claim on 30.04.1998 in response to that first party submitted written statement (Ext.5) on 05.08.1998. Today, Harish B. Shah filed the vakalatnama on behalf of the first party.

3. The case is very old one but second party has been absent since last several dated to lead evidence. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 526.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 1032/2004) (50/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-41012/69/94-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 526.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1032/2004) (ITC No. 50/1996) of the Central Government

Industrial Tribunal-cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10/03/2016.

[No. L-41012/69/94-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 14th December, 2015

Reference : (CGITA) No. 1032/2004

Reference : (ITC) No. 50/1996

The Chief Engineer (c),
Western Railway,
Station Building,
Kalupur, Ahmedabad

...First Party

Vs.

Their Workman,
Shri Uman Ahmed
Through the President,
Saurashtra Employees Union 'Baba Era',
10/5, Jagnath Plot, Swami Tahiliaram Marg,
Rajkot: 360001

...Second Party

For the First Party : Sh. H.B. Shah, Advocate

For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/69/94-IR(B-I) dated 21.11.1996 referred the dispute for adjudication to the Industrial Tribunal, Rajkot (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“(1) Whether the action of the management of Western Railway, Ahmedabad were justified according to law in terminating the services of Shri Uman Ahmed? If so was adequate opportunity afforded to the workmen to show their willingness for getting back into que for employment?

(2) Was the delay in raising the dispute justified?

(3) In view of the findings on (1) and (2) above, what is the relief that Shri Uman Ahmed is entitled to?”

2. The reference dates back to 21.11.1996. Second party filed statement of claim (Ext.3) on 31.03.1998 and first party also filed written statement (Ext. 7) on 31.07.2000 but despite giving dozens of opportunities to the second party, second party did not prefer to lead evidence. Thus it appears that Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 527.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एचडीएफसी लि. के प्रबंधन के संबंधित नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 27/2010) (24/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-12012/192/2008-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 527.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2010) (ITC No. 24/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the management of HDFC Ltd. and their workmen, received by the Central Government on 10/03/2016.

[No. L-12012/192/2008-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 14th December, 2015

Reference : (CGITA) No. 27/2010

Reference : (ITC) No. 24/2009

1. The Branch Manager,
HDFC Ltd., Radha Swami Complex,
Highway Road, Kadi
Dist: Mehsana (Gujarat)

2. The Manager,
HDFC Bank Ltd.,
Shilp-2, Gr. Floor,
Near Sales India, Ashram Road,
Ahmedabad (Gujarat)
3. The Manager (HRD),
HDFC Bank Ltd., HDFC Bank House,
2nd Lf. Senapati Bapat March,
Lower Parel,
Mumbai
- ...First Party

Vs.

- Their Workman,
Shri Nitin Kumar Jivrajbhai Patel,
36-C Alaknanda Soc. Nani Kadi,
At Kadi,
Dist: Mehsana (Gujarat)
- ...Second Party
- For the First Party : -
- For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/192/2008-IR(B-I) dated 11.06.2009 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of HDFC Bank, Ahmedabad in terminating the services of Shri Nitin Kumar Jivarajbhai Patel without following the procedure and in contravention of Section 25F, 25G and 25H of the ID Act, 1947, is valid reasonable and justified? To what relief, the workman is entitled and from which date?”

2. This reference dates back to 11.06.2009. Both the parties were served by way of registered post on 15.02.2010. Neither of the parties have been appearing in the reference. Second party has also not filed his statement of claim thus it appears that both the parties are not willing to proceed with the reference. Thus, the Tribunal has no option but to dismiss the reference in default of the parties.

The reference is dismissed in default of the parties.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 528.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ सौराष्ट्र के प्रबंधन के संबंध में नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 136/2004)

(आईटीसी नं. 1/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-12012/110/98-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 528.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 136/2004) (ITC No. 1/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of State Bank of Saurashtra and their workmen, received by the Central Government on 10/03/2016.

[No. L-12012/110/98-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 14th December, 2015

Reference : (CGITA) No. 136/2004

Reference : (ITC) No. 1/1999

State Bank of Saurashtra,
Branch Manager S.B. O.S.,
Shahibaug Branch,
Sahjanand Complex,
Ahmedabad-380001

...First Party

Vs.

Their Workman,
Smt. Manjulaben Natvarlal Panchal,
C/o. Akhil Hujarat General Mazdoor Sangh,
Rangila Gate,
Shahpur,
Ahmedabad-380001

...Second Party

For the First Party : Kum. Meenaben Shah,
Advocate

For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/110/98/IR(B-I) dated 31.12.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Saurashtra in terminating the services of Smt. Manjulaben Natvarlal Panchal w.e.f. 31.07.1997 is justified? If not, what relief the workman concerned is entitled to?”

2. This reference dates back to 31.12.1998. Second party filed statement of claim (Ext.6) on 26.07.1999 and first party filed written statement (Ext.9). Despite giving dozens of opportunities to the second party for leading evidence, second party did not prefer to lead evidence. It is one of the oldest case in the Tribunal by perusal of the record. It appears that second party is not willing to lead evidence. Thus Tribunal has no option but to dismiss the case in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 10 मार्च, 2016

का.आ. 529.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ सौराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 168/2006) (आईटीसी नं. 38/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10/03/2016 को प्राप्त हुआ था।

[सं. एल-12012/132/2005-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 10th March, 2016

S.O. 529.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 168/2006) (ITC No. 38/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of State Bank of Saurashtra and their workmen, received by the Central Government on 10/03/2016.

[No. L-12012/132/2005-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th January, 2016

Reference : (CGITA) No. 168/2006**Reference : (ITC) No. 38/2003**

1. The Chairman,
State Bank of Saurashtra,
Head Office,
P.O. Box No. 51,
Bhavnagar-394001
2. The Branch Manager,
State Bank of Saurashtra,
Head Office,
P.O. Box No. 51,
Bhavnagar

...First Party

Vs.

Their Workman

Sh. Rajesh Kumar Tida Janjvadia,
At Village-Railway Station,
Punapara Maliya Hatina,
Dist. Junagadh, Gujarat

...Second Party

For the First Party : -

For the Second Party : -

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L- 12012/132/2005-IR(B-I) dated 06.09.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of State Bank of Saurashtra in terminating the services of Shri Rajesh Kumar Tida Janjvadia w.e.f. 23.06.2004 is justified? If not, what relief he is entitled to?”

This reference dates back to 06.09.2006. Second party submitted statement of claim (Ext. 4) on 17.04.2007. First party also filed written statement (Ext.13) on 05.02.2009. Second party also filed the affidavit of workman Sh. Rajesh Kumar Tida Janjvadia, but he did not prefer to come forward to get him cross examination despite giving number of opportunities. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 530.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीबीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 12/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/199/2002-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 530.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 12 of 2003) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 11/03/2016.

[No.L-20012/199/2002-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 12 of 2003

Employer in relation to the management of
Katras Area of M/s. BCCL

AND

Their workmen

Present : Sri R.K.Saran, Presiding Officer

Appearances:

For the Employers : Shri U.N. Lal, Advocate

For the workman : Shri B.B. Pandey, Advocate

State : Jharkhand Industry : Coal

Dated : 08/02/2016

AWARD

By order No. L-20012/199/2002/IR (C-1)) dated 24/01/2003, the Central Government in the Ministry of Labour has, in exercise the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the demand of the Koyla Ispat Mazdoor Panchayat from the management of BCCL, Katras Area to provide employment to Sri Sanjay Bhuia, the dependant son of Late Kedar Bhuia is proper and

justified? If so, to what relief is the said dependant of the deceased workman entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, Ld Counsel for the workman submits that workman is not interested to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 531.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टिस्को के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 4/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20013/2/2016-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 531.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 4 of 2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. TISCO and their workmen, which was received by the Central Government on 11/03/2016.

[No.L-20013/2/2016-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S (2A) (1) (2) of
I.D. Amendment Act, 1947

I.D. No. 4 of 2013

Sri Chitranjan Mahanta, Overseer
S/o Sri Ramesh Chandra Mahanta
C & SM West Bokaro
M/s. Tata Steel Ltd.

...Applicant

Vs.

The General Manager
West Bokaro Division
M/s. TISCO, P.O.- Ghatotand
Distt- Ramgarh

...Opp.Party

Present : Sri Ranjan Kumar Saran, Presiding Officer

Appearances:

For the Applicant : Shri D. Mukherjee, Advocate

For the Opp.Party : Shri D.K. Verma, Advocate

State : Jharkhand Industry : Steel

Dated : 10/02/2016

AWARD

One I.D. Application of Sri Chitaranjan Mahanta, Overseer, S/O Sri Ramesh Chandra Mahanta Vs General Manager West Bokaro Division of M/s. TISCO is received U/s 2A (1)(2) of I.D. Amendment Act 1947 and registered as I.D. case No. 4 of 2013 as following dispute for adjudication in this Tribunal;

SCHEDULE

“Whether the action of the management of West Bokaro Colliery of M/s. Tata Steel Ltd. in dismissing Sri Chitaranjan Mahanta, Overseer w.e.f 31.10.2012/ 02.11.2012 is legal and justified? If not, to What relief the concerned workmen is entitled to?”

2. The I.D. case is received on 01.08.2013. After receipt of I.D, both Parties are noticed, the Opp.Party files their written statement on 06.12.2013. Thereafter rejoinder and document filed by the parties. No evidence adduced by both side. But document of Opp. Party marked as M-1 to M-11.

3. The case of the applicant is that he was appointed as Overseer Technical-B by letter dated 12.03.2009 and he was working regularly as permanent workman. But all on sudden the Opp.Party issued a chargesheet dated 20.03.2012. The chargesheet is prima facie illegal and against the provision of standing order of the company.

4. It is also submitted by the applicant that one domestic enquiry was conducted in utter violation of principle of natural justice. The opp party fails to file any relevant document to prove the charges. And no legal document or evidence was adduced by the management to prove the allegation of fraud or dishonesty of the applicant. And on the basis of perverse findings of the enquiry officer, the management/ Opp.party dismissed the applicant by order dated 31.10.2012/2.11.2012. It is also submitted by the applicant that the dismissal order of the applicant is prima facie illegal.

5. It is further submitted by the applicant that the supply order of stone to M/s. Santosh Kr. Singh was not issued by the petitioner, and no document was produced in the enquiry to prove that the measurement of stone supplied by M/s. Santosh Kumar Singh was less than the management's measurement done by the applicant. The delivery memo and the measurement book was checked and verified by the higher authority and payment was made

by the Accounts Department as per the company's rules. As such the order of Opp.party is vindictive in nature and too harsh as well as disproportionate. Hence the I.D was arose.

6. The case of the Opp.Party is that the applicant was working as Overseer at west Bokaro Division of Tata Steel Ltd. And was posted in Civil and Structural Maintenance Department.

7. It is also submitted by the Opp.party that the applicant has committed serious misconduct, therefore the management issued charge sheet under clause 27 (2) of the certified Standing Order. The enquiry Officer conducted domestic enquiry in resence of the applicant in accordance with principle of natural justice and submitted his report holding therein that the charges leveled against under clause 27 (2) for act of misconduct of fraud and dishonesty stand established. Thereafter the management issued second show cause notice and supplied the copy of enquiry report, after received the second show cause notice, the applicant submitted his representation. Thereafter the competent authority carefully going through the record of enquiry proceeding, findings of enquiry officer, the evidence on record, which has been established against him and the competent authority dismissed him from service w.e f. 3.11.2012. The dismissal of applicant is proportionate, legal and justified.

8. The short point to be decided in this I.D. is whether the workman, who has been dismissed on the ground of fraud & dishonesty is proper or not.

9. As alleged after detection of fraud, departmental enquiry was held. The workman participated, found guilty, served with consecutive show cause notice and the management considering the representation of the workman dismissed him.

10. In this I.D. the domestic enquiry held fair and proper. Then the only thing is to be seen, whether punishment imposed is appropriate or not.

11. The allegation against the workman/applicant is fraud. Fraud is a serious misconduct and on the same ground the workman has been dismissed. Therefore this Tribunal, is totally reluctant to interfere with the action of the management. Hence claim dismissed.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 532.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 8/2015) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/102/2010-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 532.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 8 of 2015) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 11/03/2016.

[No. L-20012/102/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 08 of 2015

Employer in relation to the management of
Sendra Bansjora Colliery of M/s. BCCL

AND

Their workmen

Present : Sri R.K.Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the Workman : Shri R.R. Ram, Rep.

State : Jharkhand

Industry : Coal

Dated : 11/02/2016

AWARD

By Order No-L-20012/102/2010 IR-(CM-I), dated 27/03/2015, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the dismissal of Shri Nirpat Bhuia, Ex-M/ Loader w.e.f. 21.01.2004 from the company by the management of Sendra Bansjora Colliery of M/s. BCCL is fair and justified? To what relief the concerned workman is entitled to?”

2. The case is received from the Ministry of Labour on 15.04.2015. After receipt of reference the Sponsoring Union

files their written statement on 16.04.2015. The management files their written statement -cum-rejoinder on 30.10.2015. No witness adduced by both side but document of management is marked as M-1 to M-8. This is a case of dismissal of workman on the ground of long absenteeism.

3. During preliminary hearing of this case, domestic enquiry held by the management is accepted by the Sponsoring Union/workman as Fair & Proper. The point involved in the reference is that the workman has been dismissed from his services on the ground of long absence.

4. During hearing of argument on merit. It is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for 12 years. It is felt to give another chance to the workman to serve.

5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee as cat-I scale. But the workman be kept under probation for a period one year. Therefore the question of giving back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 533.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सीएमपीडीआईएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 12/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/02/1993-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 533.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 12 of 1994) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CMPDIL and their workmen, which was received by the Central Government on 11/03/2016.

[No. L-20012/02/1993-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 12 of 1994

Employer in relation to the management of
M/s. CMPDIL

AND

Their workmen

Present : Sri R.K. Saran, Presiding Officer

Appearances:

For the Employers : Shri B.K. Sinha, Manager

For the Workman : None

State : Jharkhand

Industry : Coal

Dated : 19/01/2016

AWARD

By Order No. L-20012/02/1993-IR(C-1) dated 14/02/1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of the management of M/s Central Mine Planning & Design Institute Ltd. Ranchi is justified in terminating the services of the workman Shri Gangadhar Pandey w.e.f. 03/11/1988 after employing him continuously from 08/07/87 to 02/11/88 without paying him notice pay in lieu of one month notice and retrenchment compensation in violation of Sec. 25 F of I.D. Act, 1947 ? If not, to what relief the workman is entitled and from what date ?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently on behalf of the workman, Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence, No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 534.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ईसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 23/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/8/2007-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 534.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 23 of 2008) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ECL and their workmen, which was received by the Central Government on 11/03/2016.

[No. L-20012/8/2007-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 23 of 2008

Employers in relation to the management of
Mandman Colliery of M/s. ECL

AND

Their workmen

Present : Sri Ranjan Kumar Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the Workman : Shri U.P. Sinha, Advocate

State : Jharkhand

Industry : Coal

Dated : 12/02/2016

AWARD

By Order No. L-20012/8/2007-IR(CM-I), dated 28/05/2008, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“(i) Whether the action of the management of Mandman Colliery of M/s. ECL in not providing dependent employment to Shri Dilip Chouhan against Late Lachhman Chouhan S/Loader under the provision of NCWA is justified & legal ? (ii) To what relief is the claimant entitled?”

2. The case is received from the Ministry of Labour on 02.06.2008. After notice both parties appeared, the workman files their written statement on 08.07.2008. Thereafter the management files their written statement-cum- rejoinder on 12.02.2009. One witness each side adduced on their behalf respectively. Documents of workman is marked as

W-1 to W-12 and document of management is marked as M-1 to M-11. Rejoinder from both side also filed in which denial of allegations by each other and every point by both side.

3. The case of the workman is that the claimant Sri Dilip Chauhan is the son of Late Lachhman Chauhan and he is entitled to get the benefit of employment as per NCWA-III. The concerned workman Late Lachhman Chauhan died while in service of Mandman Colliery of M/s. ECL on 20.12.1986 and left behind his only son Shri Dilip Chauhan, who was dependant upon his deceased father. And mother of Dilip Chauhan is predeceased him. He is entitled to get employment against his father as para 9.4.1 and 9.4.2 of NCWA-III.

4. It is also submitted that the claimant Dilip Chauhan submitted an application with required paper before the management of Mandman Colliery in place of his deceased father on 29.09.1989 within three years of the death. The management accepted the application and desired some other documents and the claimant submitted those documents before the management on 31.07.1990. Thereafter the management called the claimant to appear before the screening Committee on 20.11.1990 the claimant appeared before screening committee and medical examination board and he was declared medically fit. He was also submitted succession Certificate, dated 2/5/1992 granted by the competent authority of Asansol.

5. It is also submitted by the workman that the management also verified the relationship from the Office of B.D.O Nirsa and all desired document including Indemnity Bond, Succession certificate and getting him medically examined for fitness for employment in mine but the management did not provide employment to the claimant. Hence Industrial dispute arose.

6. The case of the management is that the sponsoring Union raised the present dispute after the lapse of two decades and claimed compassionate appointment. The deceased employee died on 20.12.86 and after his death none of his dependant applied for employment.

7. It is also submitted by the management that the claimant is not the dependant son of the deceased employee. after lapse of several years, the claimant, Dilip Chauhan submitted an application for employment on compassionate ground stating therein that the deceased employee late lachhman chouhan is my grand father (Nana) i.e father of my mother. Grand son are not the dependant of workman.

8. It is further submitted that as per NCWA dependant means “ the wife/ husband, unmarried daughter, son and legally adopted son. If no such direct dependant is available for employment, younger brother, widowed daughter,

widow daughter –in- law residing with the deceased and almost wholly dependant on the earning of the deceased may be considered to be dependant of the deceased. The employment on compassionate ground is to be given as per provision of NCWA, but the same cannot be considered after long gap of 20 years.

9. It is also submitted by the management that the applicant submitted an affidavit before the management that his actual name is Mahendra Chouhan and not Dilip Chauhan. In the said affidavit he has stated that Smt Punia Devi is his sister. As well as Smt Punia Devi is also sworn an affidavit and stated that Mahendra Chouhan alias Dilip Chauhan is his younger brother. Sri Mahendra Chouhan adopted the name of Dilip Chouhan and suppressed the material facts before the management that he is the grand son of late Lachhman Chouhan.

10. It is also further submitted by the management that the management received the legal notice from Sri Satyadeo Sinha Advocate at and P.O Lakshisarai, Dist –Munger in which he has stated that late Lachhman Chouhan deposed before the magistrate on oath in a case under sec. 420 I.P.C to the effect that he had never any daughter and the applicant is not a genuine dependant of the deceased employee.

11. The workman claimed as dependant of Lachhman Chouhan. He claimed that he is the son of Lachhman Chouhan and that he received the gratuity of Lachhman Chouhan. The management objected, saying that the aforesaid workman claimed job after about twenty years and he is no way related to Lachhman Chouhan to get the job. Dilip Chauhan at one stage says he is also known as Mahendra Chouhan. It is also learnt that the workman is maternal grand son of late Lachhman chouhan. Except, the exparte succession certificate and gratuity documents, the workman has no photo I.D proof, photo copy of rashan card that he is the son of Lachhman Chouhan.

12. In Para 6 of the written statement of the management it is stated, that the applicant is the grand son of Lachhman Chouhan and applied for job stating that. It is simply denied by the workman in rejoinder. But the workman has not filed any photo I.D proof that he is the son of Lachhman Chouhan.

13. In affidavit of Mahendra Chouhan before the notary public “it is mentioned that my father died leaving behind me and my elder sister Smt. Punia Devi as his legal heirs as dependant”. In affidavit of Smt. punia Devi aged about 45 years in 20.9.1989 his younger brother is aged about 18 years there is 27 years different from both dependent. But workman denied in affidavit which is filed before the management with signature of Mahendra Chouhand @ Dilip Chauhan. But in Cross-examination of WW-1 he says that Punia Devi is not related to him.

14. In close scrutiny of Photograph and signature of Dilip Chauhan which is pasted in Form-K and Form -O is same and signature which is marked as Ext- M-1/1 is tally with all document of workman as well as affidavit of WW-1, where the signature of the workman is pasted. It is also noticed that all documents are there in the name of Mahendra Chouhan alias Dilip Chauhan as mentioned in Indemnity Bond.

15. It is also perused that the deceased workman died on 1986 when the aforesaid workman is minor and he got major in 1989. But the name of the aforesaid workman is mentioned in all forum in 2008 after lapses of 20 years of course after he being major.

16. As per Ext W-1 and Ext W-2, management has noticed Dilip Chauhan to appear before the screening committee and medical Board in the year 1990 but he was not provided job by the management. At that point of time he has not filed any disputes. Therefore it creates doubt why he has not filed any claim at that point of time. Now he has filed the claims after 20 years. Now he has about 44 years old. Filing of Gratuity papers ipso facto will not give claim to the said workman to get a post as dependant. Therefore his claim is negative. Moreover the application of claimant dated 12.09.1989 is filed by Dilip Chauhan S/o Sri Janki Chouhan marked as Ext. M-1.

17. Considering the facts and circumstances of this case, I hold that the action of the management of Mandman Colliery of M/s. ECL in not providing dependent employment to Shri Dilip Chauhan against Late Lachhman Chouhan S/Loader under the provision of NCWA is justified. Hence he is not entitled to get any relief.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 535.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स आईआईएससीओ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 24/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/374/1992-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 535.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government

Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 24 of 1994) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. IISCO and their workmen, which was received by the Central Government on 11/03/2016.

[No. L-20012/374/1992-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 24/1994

Employer in relation to the management of
Moonidih Jitpur Colliery of M/s. IISCO

AND

Their workmen

Present : Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the Workman : None

State : Jharkhand

Industry : Coal

Dated : 09/02/2016

AWARD

By Order No. L-20012 /374/1992-IR(C-1) dated 18/02/1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of the management of Moonidih Jitpur Colliery of M/s. IISCO Ltd. P.O. Jitpur, Dist. Dhanbad in Dismissing Shri Bijoy Kumar Mitra, Explosive Carrier, P.No. 898 from the services of the company is justified ? If not, to what relief the workman is entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 536.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 26/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/380/1992-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 536.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 26 of 1994) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 11/03/2016.

[No. L-20012/380/1992-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 26/1994

Employer in relation to the management of
Kustore Area of M/s. BCCL

AND

Their workmen

Present : Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Sri Nagendra Yadav, Dy.
Manager (P)

For the Workman : None

State : Jharkhand

Industry : Coal

Dated : 10/02/2016

AWARD

By Order No. L-20012 /380/1992-IR(C-1) dated
18/21.02.1994, the Central Government in the Ministry of

Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of the management of Kustore Area of M/s. BCCL is justified in not running a canteen by their own employees as provided under clause 8.9.1 and 8.9 of NCWA- III and NCWA- IV respectively and not employing employees S/shri Sarjoo Prasad Swarnakar and eighteen others (as per annexure) running canteen since 1974 through contractor who is provided with fuel, electricity, water and accommodation free of cost by the management? If not, to what relief the workmen are entitled and from what date ?”

ANNEXURE

List of Persons

Sl. No.	Name	Designation
1.	Shri Sarjoo Prasad Swarnakar	Canteen Manager
2.	Devendra Prasad Swarnakar	Sales man
3.	Rupesh Kumar	Clerk
4.	Rajendra Prasad Swarnakar	Cook
5.	Dwarika Pd. Swarnakar	Sales man
6.	Rakesh Kumar	Sales man
7.	Shiv Kumar Prasad Verma	Sales man
8.	Ashok Kumar	Service Boy
9.	Ram Lakhan Lal Swarnakar	Cook
10.	Jogeshwar Mahato No. I	Cook
11.	Jogeshwar Mahato No. II	Cook
12.	Pradeep Swarnakar	Service Boy
13.	Shyam Sundar Prasad	Service Boy
14.	Raj Kishore Prasad	Sales man
15.	Kishore Kumar	Sales man
16.	Dayanand Kumar	Service Boy
17.	Shiv Shankar Prasad Swarnakar	Service Boy
18.	Pappu Swarnakar	Service Boy
19.	Balli Singh	Service Boy

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 537.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 35/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/354/1993-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 537.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 35 of 1995) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 11/03/2016.

[No. L-20012/354/1993-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 35/1995

Employer in relation to the management of
Angarpathra Colliery

AND

Their workmen

Present : Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the Workman : None

State : Jharkhand Industry : Coal

Dated : 18/01/2016

AWARD

By Order No. L-20012 /354/1993-IR(C-1) dated 04/04/1995, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause

(d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the Union for departmentalization/ regularization of Shri Lakhan Mistry (Bouri) as Greaser Mistry by the management of Katras Area of M/s. BCCL is justified? If so, to what benefit the workman is entitled and from which date?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently on behalf of the workman. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 538.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टिस्को के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 41/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/30/2010-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 538.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 41 of 2011) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. TSCO and their workmen, which was received by the Central Government on 11/03/2016.

[No. L-20012/30/2010-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 41/2011

Employers in relation to the management of
6 & 7 Pits Colliery, M/s. Tata Steel Co.

AND

Their workmen

Present : Sri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : Shri D.K. Verma, Advocate

For the Workman : Shri A.D. Choudhary, Advocate

State : Jharkhand Industry : Coal

Dated : 11/02/2016

AWARD

By Order No. L-20012/30/2010-IR (CM-I) dated 14/03/2011, the Central Government in the Ministry of Labour has, in exercise of the power conferred by clause(d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication of this Tribunal:

SCHEDULE

“Whether the action of the management of 6&7 pits colliery of M/s. Tata Steel Co. Jamadoba in not paying the wages including Sunday, Holidays, Overtime, Compensatory days of rest including other tangible as intangible benefits in respect of Sri Lalit Kumar who was designated as Sr. Overman but allegedly deputed as Manager (Mining) for the period from 09.03.2004 to 30.04.2008 is justified ? To what relief the workman is entitled to ?”

2. The case is received from the Ministry of Labour on 05/09/2011. After receipt of the reference, both parties are noticed. The Sponsoring Union/ workman files their written statement on 12.09.2011. After long delay the management files their written statement on 18.10.2012. One witness each examined from both side.

3. The case of the workman is that the concerned workman joined Malkera Colliery of Sijua Group of Jharia Division as Mining Apprentice on 21.11.1986 for 3.5 years and thereafter passed Sirdarship & Overman and joined as Overman on 10.09.1991 in Malkera Colliery of Tata Steel. Thereafter he was summoned to work in the capacity of statutory Asstt. Manager (Mining) in IL-5 in 6&7 pits Colliery due to shortage of Asstt. Manager because of exigency enhanced in the mines as it was necessary to cope up such panic situation in the mines by immediate monitoring and controlling. He was asked to work as Statutory Asstt. Manager (Mining). He accepted the offer of the designated authority keeping in the view of company's need as well as bright future.

4. He joined in 6& 7 pits colliery from 09.03.2004 . He was assured by GM to be confirmed soon, and he was working as an Officer in 6&7 pits Colliery but the payroll of the workman was of Overman in Bhelatand “A” Colliery of

Sijua Group and subsequently the Medical Cards were issued in 6& 7 pits colliery with reference to an officer and a bungalow No. B-60 at 12 No Digwadih Colony was provided temporarily after three months. Even working more than six month he was not got given confirmation. He requested several times but higher authorities never accepted his request.

5. It is also submitted by the workman that he was requesting the officials to Tata Steel Ltd. to promote and regularise him as manager (Mining) but the management adopted cunning policy and some how managed to take him in continuous job of A.C.M / Manager (Mining) for four consecutive years and after that the workman was kicked out from the post. The wages of Sunday, Holiday, Overtime and compensatory Days of rest including other benefits has been refused/denied by the management which is gross injustice and deliberate act of authorities and that is under serious utter exploitation amounting to legal victimization comes under the unfair labour practice refer to V schedule section 2 (r) (a) of I.D Act. 1947.

6. It is also submitted by the workman that management has violated the Sec 33 of Mines Act 1952 by not paying overtime wages as the workman was deputed for holding 24 hours responsibility thrust of Asstt. Manager/ Manager (Mining) IL-5.

7. It is submitted by the workman that many legal dues is due to the concerned workman

- | | |
|--|-------------|
| a. Wages of Sunday worked | = 163 days |
| b. Wages of Holiday worked | = 20 days |
| c. Wages of Calculated compensatory days of rest | = 167 days |
| d. Wages of Overtime | = 2580 days |

8. It is prayed that denial of the wages of Sr. Overman who was deputed as Manager (Mining) for the period of 09.03.2004 to 30.04.2008 is justified based on the document but after denial the reference case arose.

9. On the other hand the case of the management that the person concerned resigned from the service of the company w.e.f 02.05.2008 and since than no employer employee relationship exists between the management and the person concerned.

10. It is also submitted by the management that once an employee resigned from service and received the entire legal dues in the form of final settlement, the jural relationship between the management and the person concerned ends. Such person are not workman within the meaning of sec. 2(s) of the I.D Act, therefore there can not be any Industrial dispute between the person concerned and the management assuming the concerned person claiming to be a workman has outstanding amount against the management.

11. It is further stated by the management that the present reference has to be examined on the sole issue of payment of Overtime to a person, who has ceased to be workman of the management company. The reference so instituted is bad in law and is liable to be dismissed. For the sake of clarity, the management company presents the brief facts relevant to the present issue.

12. The person concerned was appointed as an Overman on 10.09.1991 and promoted as Sr. Overman on 21.07.1994 subsequently he was appointed as Training Coordinator for Sijua Group for a period of three years. Then he obtained 2nd class Manager's certificate of competency under CMR 1957 and the management paid him Rs. 1,00,000/- as an incentive in two equal installments.

13. It is further submitted by the management that the person concerned was deployed at 6&7 Pits Colliery to acquire necessary competency. He was subsequently interviewed by the management to ascertain his suitability for promotion to the Assistant Manager (Mining), as IL-5 but the person concerned failed to succeed in the interview, though he was allowed to continue with the work and responsibility of Sr. Overman, and he did not apply for the post of Asstt. Manager (Mining) IL-6 advertised in the year 2007 where the Skill and competency of the person may have been recognized.

14. It is further stated by the management that he had requested to V.P(RM) for his placement as Manager (Mining) in IL-5 vide his application dated 02.02.2008 and after examining the facts he was intimated that he was not found suitable for the post of Manager (Mining). Thereafter subsequently he resigned from the company's service which was accepted w.e.f. 02.05.2008 and all legal dues were paid to him in the terms of final settlement. But he raised issue related to unpaid overtime dues. The said claims are clearly after thought and do not have any merit. There is no iota of evidence that the person was asked to do as overtime work and the claim is without any legal or substance.

15. The short point to be decided in the matter is to whether the workman concerned is entitled to get wages including Sunday, Holiday, Overtime, compensatory days of rest including other tangible or intangible benefits in respect of the workman. MW-1 Sri Dinesh Kr. Sharma says in cross examination that there was no post of IL-6 prior to 2005. Admittedly the workman voluntarily quit the job and received all his benefits which will be apparent from his evidence quoted below :-

“on 02.05.2008, I resigned from TATA company and joined in other company i.e. Electro Steel, Bokaro, as Asstt. Manager. I raised this dispute in 2009 while I was not an employee of TATA. I was working as an Overman in TATA, which was a supervisory post. Supervisory post is given to a person who was

certified by the DGMS. I also received my leave encashment money, Gratuity, Annual bonus and all other dues as per calculation of TATA. I was not deployed to work Overtime. I do not remember whether I was given order to work on Sunday/ weakly up.”

16. This being the situation from the own admission of the workman that he received his leave encashment, Gratuity, Annual Bonus and all other dues, and he also accepts that and he was not deployed to work Overtime, he has nothing to get from the management. Hence he has no claim before us and as such the reference is answered against him.

17. Considering the facts and circumstances of this case, I hold that the action of the management of 6&7 pits colliery of M/s. Tata Steel Co. Jamadoba in not paying the wages including Sunday, Holidays, Overtime, Compensatory days of rest including other tangible as intangible benefits in respect of Sri Lalit Kumar who was designated as Sr. Overman but allegedly deputed as Manager (Mining) for the period from 09.03.2004 to 30.04.2008 is justified. Hence he is not entitled to get any relief.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 539.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 68/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/204/1993-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 539.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 68 of 1994) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 11/03/2016.

[No. L-20012/204/1993-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/s 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 68/1994

Employer in relation to the management of
Koyla Bhawan of M/s. BCCL

AND

Their workmen

Present : Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the Workman : None

State : Jharkhand Industry : Coal

Dated : 9/02/2016

AWARD

By order No. L-20012 /204/1993-IR(C-1) dated 24/03/1994, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the action of the management of M/s. BCCL at P.O.-Koyla Nagar, Dist.-Dhanbad in dismissing Shri Ram Chandra Nonia from the service of the co. w.e.f. 04.01.1992 is justified? If not, to what relief the workman is entitled.

2. After receipt of the reference, both parties are noticed. Though they took steps for certain dated, Subsequently did not take any interest in the case. It is resumed that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 11 मार्च, 2016

का.आ. 540.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 81/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/03/2016 को प्राप्त हुआ था।

[सं. एल-20012/356/1999-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 11th March, 2016

S.O. 540.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (Ref. No. 81 of 2000) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 11/03/2016.

[No. L-20012/356/1999-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/s 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 81/2000

Employer in relation to the management of
P.B. Area M/s. BCCL

AND

Their workmen

Present : Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the Workman : None

State : Jharkhand Industry : Coal

Dated : 20/01/2016

AWARD

By order No. L-20012 /356/1999-IR(C-I) dated 28/01/2000, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the Union before the management of Pootki Colliery under P.B. Area of M/s. BCCL to provide employment to Sri Mantu Kumar, dependant son of Smt. Ram Patia Kamin as per voluntary retirement scheme for females is justified? If so, to what relief the workman of her dependant Sri Mantu Kumar is entitled?”

2. After publishing of Award. The case is re-opened on the ground of back wages as per order of Hon'ble High

court in WP (L) No.1672 of 2007. Both parties are noticed, Also appeared for certain dates thereafter none appears. Subsequently on behalf of the workman no interest taken nor adduced fresh evidence as ordered by Hon'ble High Court. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 14 मार्च, 2016

का.आ. 541.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डीसीसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ सं. 18/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/03/2016 को प्राप्त हुआ था।

[सं. एल-22012/146/2012-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 14th March, 2016

S.O. 541.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of Dankuni Coal Complex and their workmen, received by the Central Government on 14/03/2016.

[No. L-22012/146/2012-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 18 of 2012

Parties:

Employers in relation to the management of
Dankuni Coal Complex

AND

Their workmen

Present: Justice Dipak Saha Ray, Presiding Officer

Appearance:

On behalf of the : Mr. Uttam Mondal, Ld. Counsel
Management

On behalf of the : None
Workmen

State : West Bengal

Industry : Coal

Dated : 29th February, 2016

AWARD

By Order No.L-22012/146/2012-IR(CM-II) dated 25.10.2012 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the management of Dankuni Coal Complex is justified in denying the charter of demands submitted by the union as per Annexure (copy enclosed) is legal and/or justified? What relief the workman is entitled to?”

2. When the case is taken up for hearing today, none appears on behalf of the union, though the management it represented by its Ld. Counsel. It appears from the record that the union is absent for 3(three) consecutive dates.

3. Considering the above facts and circumstances, it appears that the union is not all interested to proceed with the case further. So, no fruitful purpose will be served in keeping the matter pending.

4. In view of the above, instant reference is disposed of by passing a “No Dispute Award”.

Dated, Kolkata,

The 29th February, 2016

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 14 मार्च, 2016

का.आ. 542.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीएनबी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 87/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/217/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 14th March, 2016

S.O. 542.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of Central Narcotics Bureau, Nivarak avam Aasoochana Prakoshth and their workmen, received by the Central Government on 14/03/2016.

[No. L-42012/217/2004-IR (CM-II)]

RAJENDER SINGH, Section Officer

अनुबंध**केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर****सी.जी.आई.टी. प्रकरण सं. 87/2005**

भरत पाण्डेय, पीठासीन अधिकारी

रेफरेन्स नं. L-42012/217/2004-IR (CM-II) दिनांक 04/08/2005

Shri Tulsiram, S/o Shri Laluram Gameti,
Basant Vihar, Flat- No. 335, Hiran Nagri No. 5,
Udaipur (Rajasthan)

v/s

1. The Office Superintendent,
Central Narcotics Bureau,
Kota – Rajasthan
2. The Superintendent,
Nivarak avam Aasoochana Prakoshth,
Central Bureau of Narcotics,
Distt.- Udaipur (Rajasthan)

प्रार्थी की तरफ से : श्री भवानी सिंह भाटी – प्रतिनिधि

अप्रार्थी की तरफ से : श्री टी. पी. शर्मा – एडवोकेट

: पंचाट :

दिनांक : 4.12.2015

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10 उप-धारा 1 खण्ड (घ) के अन्तर्गत दिनांक 04/08/2005 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :-

2. “क्या अधीक्षक, केन्द्रीय नारकोटिक्स ब्यूरो, राजस्थान, कोटा/ अधीक्षक (नि.) निवारक एवं आसूचना प्रकोष्ठ, केन्द्रीय नारकोटिक्स ब्यूरो, उदयपुर के द्वारा अपने कर्मकार श्री तुलसी राम पुत्र श्री लालूराम गमेती ड्राईवर-कम-चतुर्थ श्रेणी कर्मचारी को दिनांक 11.3.1993 से दिनांक 1.1.2003 तक कार्य करने के बाद दिनांक 1.1.2003 से सेवा से बर्खास्त करना न्यायोचित एवं विधि सम्मत है? यदि नहीं तो कर्मकार अपने नियोजक से किस राहत पाने का अधिकारी है? ”

3. स्टेटमेन्ट ऑफ क्लेम में दिये गये तथ्य के अनुसार संक्षिप्त: प्रार्थी श्री तुलसी राम का कथन है कि उसकी नियुक्ति ड्राईवर-कम-चतुर्थ श्रेणी कर्मचारी के रूप में दिनांक 11.3.1993 को विपक्षी के उदयपुर स्थित कार्यालय में की गई थी तभी से प्रार्थी से वाहन चालन, सफाई एवं चौकीदारी का कार्य निरन्तर लिया जाता रहा है। प्रार्थी के पास वाहन चलाने का लाईसेन्स दिनांकित 15.4.91 है और इसी लाईसेन्स के आधार पर उसकी नियुक्ति की गई थी। आगे प्रार्थी का कथन है कि विपक्षी के यहां अन्य कार्यरत वाहन चालकों/चौकीदारों को निर्धारित वेतन शृंखलाएं दी जाती रही हैं किन्तु प्रार्थी को चालकों/चौकीदारों की वेतन शृंखला व भत्ते न देकर मात्र लगभग 1800 रुपये प्रतिमाह वेतन दिया जाता था।

4. याचिका के प्रस्तर 2 में प्रार्थी का कथन है कि प्रार्थी ने विपक्षी से कई बार चालकों/चौकीदारों के समान परिलाभों की मांग की किन्तु विपक्षीगण ने प्रार्थी को सम्पूर्ण वेतन लाभ नहीं प्रदान किया और प्रार्थी से नाराजगी रखने लगे जबकि विपक्षी भारतीय संविधान के अनुच्छेद 12 के अन्तर्गत राज्य की परिभाषा में आता है और विपक्षी का यह दायित्व है कि समान कार्य करने वाले व्यक्तियों के साथ समान व्यवहार करें। भारतीय संविधान के मूल अधिकार एवं नीति-निर्देशक तत्वों के अन्तर्गत प्रार्थी का यह अधिकार था कि वाहन चालक का कार्य उससे लिया गया है तो उसे विपक्षी द्वारा वाहन चालक की वेतन शृंखला एवं भत्ते प्रदान किये जाये लेकिन विपक्षी ने भारतीय संविधान के प्राविधान के उल्लंघन में प्रार्थी को सम्पूर्ण सेवा लाभ प्रदान नहीं किया।

5. प्रार्थी ने उपरोक्त सेवा लाभ प्रदान करने के लिए विपक्षी को अनुलग्नक 2 लगायत अनुलग्नक 9 एवं अनुलग्नक 14 पत्र लिखे तथा समय-समय पर कई आवेदन प्रस्तुत किये जिसमें प्रार्थी ने स्थायीकरण, एवं वाहन चालक के कार्य के अनुरूप वेतन शृंखला एवं भत्ते की मांग की लेकिन विपक्षी ने कोई ध्यान नहीं दिया। प्रार्थी अत्यन्त गरीब और अनुसूचित जनजाति (गमेती) का आठवीं पास व्यक्ति है जिसके पास वैध ड्राईविंग लाइसेन्स है। प्रार्थी पर उसके परिवार के चार व्यक्तियों के जीवन यापन का दायित्व है और 1800 रुपये मात्र से गुजारा नहीं होता है प्रार्थी से वाहन चलाने के अतिरिक्त चौकीदारी और सफाई आदि का कार्य उससे 24 घण्टे लिया जाता था एवं रविवार के दिन भी उससे चौकीदारी का कार्य लिया जाता था इस प्रकार प्रार्थी रात को चौकीदारी और दिन में वाहन चलाने का कार्य करता था। प्रार्थी को कई बार कॉन्सटेबल की ड्यूटी भी दी जाती थी।

6. आगे याचिका के प्रस्तर 5 में याचिका का कथन है कि उसका कार्य टेलिफोन अटैण्डेन्ट, चतुर्थ श्रेणी, वाहन चालक एवं चौकीदारी आदि के थे और सभी कार्य के लिए प्रार्थी को श्रम विधि के अनुसार न्यूनतम वेतन दिया जाता था। प्रार्थी को लगभग 10 वर्ष तक अस्थायी नियोजन में रखा जाना अनुचित एवं अवैध था और प्रार्थी स्थायीकरण का हकदार था। प्रार्थी द्वारा स्थायीकरण एवं वेतन शृंखला की निरन्तर मांग के कारण विपक्षीगण प्रार्थी को बोझ समझने लगे और दिनांक 1.1.2003 को अचानक सेवा से पृथक कर दिया। विपक्षीगण ने प्रार्थी को सेवा से हटाने का कोई कारण नहीं बताया। प्रार्थी की सेवाएं सन्तोषप्रद थी और उसके विरुद्ध कोई आरोप नहीं था। प्रार्थी को सेवा से हटाने से पूर्व एक माह की नोटिस अथवा नोटिस के स्थान पर वेतन नहीं प्रदान किया गया। प्रार्थी को दुर्भाग्य से प्रेरित होकर सेवा लाभ न देने के उद्देश्य से 10 साल की सेवा पूर्ण होने पर भी स्थायी नहीं किया गया और एक माह की नोटिस, नोटिस के बदले वेतन तथा छटनी मुआवजा दिये बिना सेवा से पृथक कर दिया गया जबकि प्रार्थी के बाद सेवा में आये कर्मचारी विपक्षी संख्या 1 के अधीन जयपुर, जोधपुर एवं उदयपुर आदि स्थानों पर कार्यरत है इस प्रकार प्रार्थी का सेवा से पृथक किया जाना अवैध है।

7. याचिका में आगे यह कहा गया है कि प्रार्थी की सेवामुक्ति धारा 25 एफ, 25 जी एवं 25 एच के उल्लंघन में की गयी है और प्रार्थी को सेवा से हटाये जाने के बाद उदयपुर, जयपुर और कोटा में कर्मचारों की नियुक्ति की गयी है जो अभी भी कार्यरत है। अतः प्रार्थी ने याचना की है कि उसे

स्थायीकरण आदि के लाभ सहित सेवा में पुनर्स्थापित किया जाय और ब्याज सहित समस्त वेतन लाभ दिलाया जाय।

8. विपक्ष की तरफ से वादोत्तर प्रस्तुत कर याचिका के प्रस्तर 1 लगायत 11 के सम्बन्ध में कहा गया है कि जिस प्रकार वर्णन क्लेम की उक्त धाराओं में प्रस्तुत किया गया है वह स्वीकार नहीं है। अतिरिक्त कथन में यह कहा गया है कि श्रमिक को विपक्षी विभाग द्वारा कभी नियुक्ति पत्र नहीं जारी किया गया और न ही दैनिक वेतन भोगी के रूप में रखा गया था। प्रार्थी को केवल एक आकस्मिक श्रमिक के रूप में रखा गया था तथा उसे कभी भी वाहन चालक अथवा किसी भी पद पर कभी भी नियुक्ति नहीं दी गयी थी जिस कारण प्रार्थी विभाग का स्थायी कर्मचारी नहीं है एवं वह चालक/चौकीदार की वेतन शृंखला तभी प्राप्त कर सकता है जब वह विभाग का स्थायी कर्मचारी हों। प्रार्थी को ब्यूरो सेवा में कभी भी नियुक्ति नहीं दी गयी और न कोई नियुक्ति पत्र दिया गया। प्रार्थी एक आकस्मिक श्रमिक के रूप में रखा गया था और कार्य समाप्ति पर उसका कार्य स्वतः समाप्त हो जाता था।

9. प्रार्थी से वाहन चालक सम्बन्धित कार्य नहीं करवाया जाता था और दैनिक वेतन भोगी के रूप में निर्धारित दर के अनुसार 1800 रुपया प्रतिमाह के हिसाब से भुगतान किया जाता था। प्रार्थी का कार्य केवल सफाई करने का कार्य था और उसी के अनुसार भुगतान किया जाता था। विपक्ष द्वारा प्रार्थी का हाजिरी रजिस्टर में हस्ताक्षर नहीं करवाया जाता था और कार्यदिवस पर उपस्थित होने के अनुसार भुगतान किया जाता था जिसका रिकार्ड विभाग के पास उपलब्ध नहीं है। याचिका के प्रस्तर 6 में प्रार्थी ने जिन दस्तावेजों की मांग की है वह विभाग के पास उपलब्ध नहीं है क्योंकि प्रार्थी द्वारा मांगे गये दस्तावेज काल्पनिक हैं।

10. याचिका के प्रस्तर 7 के कथन के विरुद्ध विपक्षीगण का कथन है कि अप्रार्थी विभाग भारत सरकार का उपक्रम है जिसके लिये भारत सरकार के द्वारा दिये गये दिशा निर्देशों की पालना करना आवश्यक है। नियुक्ति की प्रक्रिया के बारे में भी स्पष्ट है कि ब्यूरो किसी भी व्यक्ति को भारत सरकार के दिशा निर्देश की अनुपालना किये बिना किसी भी व्यक्ति को नियुक्ति नहीं दे सकता। प्रार्थी को जब विभाग के द्वारा नियुक्त ही नहीं किया गया तो पृथक्करण का सवाल ही उत्पन्न नहीं होता। प्रार्थी का यह कहना गलत है कि उसने निरन्तर 10 वर्ष तक कार्य किया बल्कि कार्य होने पर उसे बुलाया जाता था और कार्य के समापन के बाद उसकी आवश्यकता स्वतः समाप्त हो जाती थी। आगे विपक्षी का कथन है कि विपक्षी विभाग द्वारा औद्योगिक विवाद अधिनियम 1947 की किसी भी प्राविधान का उल्लंघन नहीं किया गया है क्योंकि विपक्षी विभाग भारत सरकार का उपक्रम है जिसके दिशा निर्देशों का पालन करना विभाग का कर्तव्य है। यह भी कहा गया है कि प्रार्थी श्रमिक का विभाग से हटने के बाद कभी भी अस्थायी कर्मचारी की भर्ती नहीं की गयी है बल्कि विभाग के सभी कर्मचारियों की नियुक्ति स्थायी प्रकृति की है।

11. आगे विपक्षी का कथन है कि प्रार्थी द्वारा न्यायाधिकरण से याचित अनुतोष मनगढ़ंत तथ्यों पर आधारित होने के कारण खारिज किये जाने योग्य है तथा प्रार्थी किसी प्रकार का अनुतोष पाने का हकदार नहीं है।

12. याची पक्ष की तरफ से याचिका के समर्थन में प्रलेखीय साक्ष्य के रूप में अनुलग्नक 1 लगायत अनुलग्नक 14 याचिका के साथ प्रस्तुत किये गये हैं। इसके अतिरिक्त दैनिक वेतन भोगियों की नियुक्ति आदेश दिनांक 3.4.98 की फोटोप्रति प्रदर्श 15, सेवासम्बन्धी प्रमाण पत्र दिनांक 8.1.2003 की फोटोप्रति प्रदर्श 16 तथा प्रार्थी की डाईविंग लाईसेन्स की फोटोप्रति प्रदर्श डब्ल्यू 1 ए प्रस्तुत है। याची पक्ष की तरफ से मौखिक साक्ष्य में श्री तुलसी राम, प्रार्थी प्रस्तुत किये गये हैं जिनके शपथ-पत्र पर उनकी प्रतिपरीक्षा की गयी है।

13. विपक्ष की तरफ से सूची के साथ सितम्बर 98 से जनवरी 2003 की कर्मचारीगण की उपस्थिति पंजिका की प्रमाणित फोटोप्रति, दिनांक 3.9.2000 से 19.3.2001 तक की वाहन से सम्बन्धित लॉग बुक की प्रमाणित फोटोप्रति और दिनांक 18.3.2002 से 4.8.2002 तक की स्टेशन डायरी की प्रमाणित फोटोप्रति प्रस्तुत है। विपक्ष की तरफ से श्री विजय सिंह, अधीक्षक निवारक एवं आसूचना प्रकोष्ठ, उदयपुर को मौखिक साक्ष्य के रूप में प्रस्तुत किया गया है जिनकी शपथ-पत्र पर प्रस्तुत साक्ष्य पर याची पक्ष द्वारा प्रतिपरीक्षा की गयी है। उभयपक्ष की तरफ से कोई अन्य प्रलेखीय या मौखिक साक्ष्य पत्रावली पर नहीं है।

14. मैंने उभयपक्ष के विद्वान प्रतिनिधिगण की बहस सुनी तथा पत्रावली का सम्यक् अवलोकन किया। विपक्ष की तरफ से पत्रावली पर लिखित बहस भी प्रस्तुत की गयी है। याची पक्ष की तरफ से कोई लिखित बहस नहीं प्रस्तुत है।

15. याची पक्ष की तरफ से निम्न विधिक दृष्टान्त प्रस्तुत किये गये हैं—

1. 2005 ए.आई.आर. एस.सी.डब्ल्यू पृष्ठ 6103 आर.एम.येल्लाट्टी -अपीलार्थी बनाम असिस्टेंट एक्जीक्यूटिव इंजीनियर -प्रत्यर्थी
2. 2005 लैब.आई.सी. 2279 (सर्वोच्च न्यायालय), बैंक ऑफ बड़ौदा -अपीलार्थी बनाम घेमारभाई हरजीबाई रबडी -प्रत्यर्थी
3. केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय, जयपुर द्वारा सीजीआईटी केस नम्बर 43/2003 श्री रामेश्वर लाल जाट - याची बनाम डिस्ट्रिक्ट ओपियम अधिकारी - विपक्षी में पारित निर्णय दिनांक 27.1.2005 की प्रमाणित फोटोप्रति की फोटोप्रति
4. केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय, जयपुर द्वारा सीजीआईटी केस नम्बर 129/2005 श्री उमा शंकर अग्रवाल - याची बनाम द डिप्टी नारकोटिक्स कमिशनर, - विपक्षी में पारित निर्णय दिनांक 03.1.2011 की प्रमाणित फोटोप्रति की फोटोप्रति

16. विपक्ष की तरफ से कोई विधिक दृष्टान्त प्रस्तुत नहीं किया गया है। बहस की समाप्ति के उपरान्त पक्षकारों को निर्देशित किया गया था कि पक्षकार विधिक दृष्टान्त बहस की समाप्ति के 15 दिन के अन्दर प्रस्तुत करें परन्तु निर्णय की तिथि तक कोई दृष्टान्त नहीं प्रस्तुत किया गया है।

17. याची की विद्वान प्रतिनिधि की तरफ से यह बहस की गयी है कि याची ने लगातार 240 दिन से ज्यादा कार्य किया है, विपक्ष द्वारा धारा 25-एफ के

नोटिस दिये बिना याची को सेवा से विधि विरुद्ध हटाया गया है, याची को कोई छंटनी मुआवजा भी नहीं प्रदान किया गया है। यह बहस भी की गयी है कि 240 दिन निरन्तर कार्य करने के तथ्य को साबित करने के सम्बन्ध में प्रार्थी पक्ष ने विपक्ष से अभिलेख तलब कराये थे जिसके अनुपालन में विपक्ष द्वारा अधूरे अभिलेख प्रस्तुत किये गये, अतः विपक्ष के विरुद्ध अधूरे अभिलेख प्रस्तुत करने के कारण प्रतिकूल अवधारणा साक्ष्य अधिनियम की धारा 114 के अन्तर्गत न्यायाधिकरण द्वारा ग्रहण की जानी चाहिए क्योंकि विपक्ष द्वारा ड्यूटी रजिस्टर, वेतन रजिस्टर नहीं प्रस्तुत किये गये हैं अतः याची को विपक्ष द्वारा सेवा से विधि विरुद्ध हटाये जाने के कारण सेवा की निरन्तरता के साथ समस्त विगत वेतन सहित सेवा में पुनर्स्थापित करने का आदेश न्यायाधिकरण द्वारा पारित किया जाय। विपक्ष के विद्वान प्रतिनिधि की तरफ से यह बहस की गयी है कि प्रार्थी को विपक्ष द्वारा कोई नियुक्ति पत्र नहीं जारी किया गया क्योंकि वह आकस्मिक श्रमिक था जिसे दैनिक वेतन भोगी के रूप में रखा गया था तथा उसे कभी चालक के पद पर नियुक्त नहीं किया गया। प्रार्थी की कभी नियुक्ति नहीं की गयी अतः उसे सेवा से अलग करने का सवाल उत्पन्न नहीं होता। प्रार्थी का कार्य केवल सफाई करने का था और उसी के अनुसार उसको भुगतान किया जाता था। यह बहस भी की गयी है कि उसने किसी भी वर्ष में 240 दिन लगातार कार्य नहीं किया तथा विभाग में कार्य न होने के कारण स्वतः कार्य छोड़कर चला गया। यह भी कहा गया है कि विभाग का स्थायी कर्मचारी नहीं था इसलिये उसके द्वारा वेतन भत्ते एवं परिलाभ प्राप्त करने का प्रश्न नहीं उत्पन्न नहीं होता। प्रार्थी को दैनिक वेतन भोगी के रूप में आवश्यकतानुसार पानी भरने, कार्यालय की सफाई करने इत्यादि आकस्मिक कार्य हेतु दैनिक मजदूरी पर रखा गया था और निर्धारित दर के अनुसार उसको भुगतान कर दिया जाता था। यह भी कहा गया है कि उसका हस्ताक्षर किसी रजिस्टर में नहीं करवाया जाता था, विपक्षी भारत सरकार का उपक्रम है जहां किसी भी व्यक्ति को बिना प्रक्रिया अपनाये नियुक्ति नहीं दी जा सकती। प्रार्थी की सेवा समाप्ति के बाद से विपक्षी विभाग में ठेकेदार के माध्यम से कार्य करवाया जाता है और सम्बन्धित श्रमिक का भुगतान ठेकेदार के द्वारा ही किया जाता है। यह भी कहा गया है कि प्रार्थी का यह कहना गलत है कि उसने 10 साल तक निरन्तर कार्य किया बल्कि कार्य की उपलब्धता पर श्रमिक को कार्य के लिये बुलाया जाता था और कार्य समाप्त होने पर वह स्वतः चला जाता था। प्रार्थी की सेवायें कार्य समाप्त होने पर स्वतः ही समाप्त हो गयी थी। लिखित बहस में यह उल्लेख है कि भारत सरकार ने विपक्षी विभाग में आकस्मिक मजदूरों की भर्ती पर पूर्णतया प्रतिबन्ध लगाया हुआ है इसलिये आकस्मिक श्रमिक को याचित पद पर नियुक्त करना सम्भव नहीं है, प्रार्थी का क्लेम चलने योग्य नहीं होने के कारण खारिज होने योग्य है। विपक्ष की तरफ से लिखित बहस में यह उल्लेख किया गया है कि केन्द्रीय नारकोटिक्स ब्यूरो, "उद्योग" की परिभाषा से आच्छादित नहीं है अतः औद्योगिक विवाद अधिनियम के प्राविधान लागू नहीं होते हैं इसके विरुद्ध याची के विद्वान प्रतिनिधि की तरफ से यह बहस की गयी है कि विपक्ष की यह बहस पोषणीय नहीं है कि केन्द्रीय नारकोटिक्स ब्यूरो "उद्योग" की परिभाषा से आच्छादित नहीं है, याची पक्ष की तरफ से अपने कथन के समर्थन में केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय, जयपुर द्वारा सीजीआईटी केस नम्बर 43/2003

श्री रामेश्वर लाल जाट – याची बनाम डिस्ट्रिक्ट ओपियम अधिकारी – विपक्षी में पारित निर्णय दिनांक 27.1.2005 की प्रमाणित फोटोप्रति की फोटोप्रति एवं केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय, जयपुर द्वारा सीजीआईटी केस नम्बर 129/2005 श्री उमा शंकर अग्रवाल – याची बनाम द डिप्टी नारकोटिक्स कमिश्नर, – विपक्षी में पारित निर्णय दिनांक 03.1.2011 की प्रमाणित फोटोप्रति की फोटोप्रति प्रस्तुत की गयी है।

18. जहां तक केन्द्रीय नारकोटिक्स ब्यूरो को "उद्योग" की परिभाषा से आच्छादित होने का प्रश्न है विपक्ष की तरफ से केवल अपनी लिखित बहस के प्रस्तर 10 में यह बिन्दु उठाया गया है कि केन्द्रीय नारकोटिक्स ब्यूरो "उद्योग" की परिभाषा से आच्छादित नहीं है इसलिये औद्योगिक विवाद अधिनियम के प्राविधान लागू नहीं होते हैं तथा याचिका पोषणीय नहीं है परन्तु याची पक्ष की तरफ से प्रस्तुत केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय, जयपुर द्वारा सीजीआईटी केस नम्बर 43/2003 श्री रामेश्वर लाल जाट – याची बनाम डिस्ट्रिक्ट ओपियम अधिकारी – विपक्षी, में पारित निर्णय दिनांक 27.1.2005 की प्रमाणित फोटोप्रति की फोटोप्रति एवं केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय, जयपुर द्वारा सीजीआईटी केस नम्बर 129/2005 श्री उमा शंकर अग्रवाल – याची बनाम द डिप्टी नारकोटिक्स कमिश्नर, – विपक्षी, में पारित निर्णय दिनांक 03.1.2011 की प्रमाणित फोटोप्रति की फोटोप्रति के अवलोकन से यह जाहिर है कि पूर्व में विभाग के विरुद्ध उक्त दोनों मामले निर्णित किये गये हैं और याचीगण को उनके हित में अनुतोष प्रदान किया गया है। केस नम्बर 43/2003 में यह अवधारित किया गया है कि विपक्षी विभाग "उद्योग" की परिभाषा से आच्छादित है। इन निर्णयों के विरुद्ध किसी न्यायालय में कोई याचिका लम्बित नहीं बतायी गयी है। विपक्ष की तरफ से अपनी बहस के समर्थन में कोई विधिक दृष्टान्त नहीं प्रस्तुत किया गया है, अतः मैं इस निष्कर्ष पर हूँ कि विपक्ष की यह बहस संधारणीय नहीं है कि केन्द्रीय नारकोटिक्स ब्यूरो उद्योग की परिभाषा से आच्छादित नहीं है इसलिये याचिका पोषणीय नहीं है।

19. जहां तक विपक्षी के विभाग में प्रार्थी की ड्राईवर-कम-चतुर्थ श्रेणी कर्मचारी के रूप में दिनांक 11.3.1993 को नियुक्त किये जाने का प्रश्न है याचिका के प्रस्तर 1 में दिनांक 11.3.1993 को विपक्षी के उदयपुर कार्यालय में नियुक्त होने का उल्लेख प्रार्थी ने किया है जिस तथ्य को वादोत्तर में विपक्ष ने अस्वीकार किया है और कहा गया है कि प्रार्थी श्रमिक को कभी भी विपक्ष द्वारा नियुक्ति पत्र नहीं जारी किया गया। इस तथ्य को स्वीकार किया गया है कि प्रार्थी को मात्र एक आकस्मिक दैनिक वेतन भोगी श्रमिक के रूप में रखा गया था तथा उसे कोई स्थायी नियुक्ति नहीं दी गयी थी। उक्त स्थिति से यह स्पष्ट है कि विपक्ष द्वारा नियुक्ति से इन्कार के बाद याचिका के प्रस्तर एक में विपक्षी के यहां नियुक्त होने के कथन को सिद्ध करने का भार प्रार्थी पर है। पत्रावली पर प्रार्थी की तरफ से कोई नियुक्ति पत्र विपक्षी के यहां दिनांक 11.3.1993 को नियुक्त होने के सम्बन्ध में नहीं प्रस्तुत किया गया है। प्रार्थी ने साक्ष्य में प्रस्तुत अपने शपथ पत्र में विपक्षी के संस्थान में दिनांक 11.3.1993 को नियुक्त होने का उल्लेख किया है लेकिन नियुक्ति के समय मिलने वाले वेतनमान का उल्लेख नहीं किया है परन्तु शपथ पत्र में यह कहा है कि सेवा

से मुक्त होते समय उसका अन्तिम वेतन 1800 रुपये प्रतिमाह था। प्रतिपरीक्षा में याची ने यह कहा है कि यह सही है कि सफाई कार्य पर रखते समय उसे कोई नियुक्ति पत्र नहीं दिया गया था और सफाई कार्य के लिए उसे अकेले ही रखा गया था। याची ने यह भी प्रतिपरीक्षा में स्वीकार किया है कि विभाग द्वारा उसकी नियुक्ति के सम्बन्ध में कोई विज्ञापन नहीं निकाला गया था। यह भी कहा है कि उसके पिता विपक्षी के विभाग प्रतापगढ़ में काम करते थे इसलिये उसे सफाई कार्य के लिये रखा गया था। विपक्षी साक्षी श्री विजय सिंह मीणा, अधीक्षक, निवारक एवं आसूचना प्रकोष्ठ की पूरी प्रतिपरीक्षा के अवलोकन से यह प्रकट है कि विपक्ष द्वारा अपने विभाग में प्रार्थी की नियमित नियुक्ति के तथ्य को कहीं स्वीकार नहीं किया गया है। पृष्ठ एक पर प्रतिपरीक्षा में श्री विजय सिंह मीणा ने यह स्वीकार किया है कि पत्रावली पर उपलब्ध हाजिरी रजिस्टर की फोटोप्रति डी 1 लगायत डी 37 में जितने लोगों के नाम अंकित हैं उनमें श्री तुलसी राम सफाई कर्मचारी हैं और शेष सभी लोग नियमित कर्मचारी हैं तथा तुलसी राम के अतिरिक्त शेष सभी को नियुक्ति पत्र निर्गत किया गया है। प्रार्थी द्वारा क्लेम के साथ प्रस्तुत अनुलग्नक-3 से यह प्रकट होता है कि प्रार्थी 11 रुपये दैनिक मजदूरी पर विपक्ष द्वारा सफाई कार्य के लिए रखा गया था। अनुलग्नक 2 में स्वयं याची ने ही उल्लेख किया है कि वह सफाई का कार्य 6 वर्षों से करता आ रहा है। इससे प्रार्थी का याचिका के प्रस्तर एक में किया गया कथन गलत साबित होता है कि दिनांक 11.3.1993 को उसे ड्राईवर-कम-चतुर्थ श्रेणी कर्मचारी के रूप में नियुक्ति दी गयी थी। अनुलग्नक 4 दिनांकित 3.4.97 में भी याची ने सफाई कर्मचारी होने के तथ्य को ही स्वीकार किया है और अनुलग्नक 5 दिनांकित 14.9.99 एवं अनुलग्नक 6 दिनांकित 8.2.2002 में भी स्वयं को सफाई कर्मचारी ही बताया है। अनुलग्नक 8 दिनांकित 1.8.2002 में पहली बार याची ने कहा है कि वह सफाई कार्य एवं चौकीदारी के साथ कभी कभी शासकीय वाहन चलाने का कार्य भी करता था जिसकी पुनरावृत्ति अनुलग्नक 9 दिनांकित 21.12.2002 में की गयी है। इससे यह नहीं कहा जा सकता है कि वह चालक कम चतुर्थ श्रेणी कर्मचारी के रूप में नियुक्त हुआ था। याची की तरफ से प्रस्तुत अभिलेख Ex-W-15 दिनांकित 3.4.98 से यह जाहिर है कि याची की 32/- रुपये दैनिक मजदूरी पर सफाईकर्म के रूप में नियुक्ति दिनांक 10.3.1998 से कार्यालय अधीक्षक, उदयपुर के कार्यालय में केवल एक माह के लिए हुई थी। इस नियुक्ति आदेश की शर्त के अनुसार प्रार्थी को विपक्ष की सेवा में लिये जाने या वरीयता सूची में सम्मिलित होने का अधिकार उपलब्ध नहीं है। स्टेशन डायरी की प्रति तथा लाग-बुक की प्रतियों के अवलोकन से यह जाहिर है कि याची ने कभी-कभी नियमित चालकों की अनुपस्थिति में विभाग के आवश्यकतानुसार वाहन चालक का कार्य भी किया है एवं इस तथ्य को विपक्षी साक्षी ने प्रतिपरीक्षा में पृष्ठ 4 पर स्वीकार किया है जब साक्षी का ध्यान वाहन लाग बुक के पृष्ठ तीन पर आकर्षित किया गया है। साक्षी ने कहा है कि प्रार्थी को लाग बुक की प्रविष्टि में डेली वेजर के रूप में दर्शाया गया है एवं उस दिन चालक नहीं रहा होगा इसलिए उसे चालक का काम सौंपा गया होगा। साक्षी ने कहा है कि तुलसीराम को कन्टीजेन्ट बिल बनाकर भुगतान विभाग द्वारा ही किया जाता था। प्रलेखीय एवं मौखिक साक्ष्य की उक्त व्याख्या व विश्लेषण से मैं इस निष्कर्ष पर हूँ कि प्रार्थी विपक्षी विभाग में सफाई कार्य के लिये दिनांक

11.3.1993 को सफाई कार्य के लिये दैनिक वेतन भोगी के रूप में 11 रुपया दैनिक मजदूरी पर रखा गया था।

20. जहाँ तक दिनांक 11.3.1993 से दिनांक 1.1.2003 तक लगातार प्रार्थी द्वारा विभाग में कार्य किये जाने का प्रश्न है इसकी पुष्टि के लिए पत्रावली पर कोई प्रलेखीय साक्ष्य नहीं है जिससे यह जाहिर हो सके कि प्रार्थी ने दिनांक 11.3.1993 से दिनांक 1.1.2003 तक नियमित कार्य किया है। अगर ऐसा होता तो नियुक्ति पत्र दिनांक 3.4.98 Ex-W-15 जारी करने की जरूरत नहीं होती। विपक्षी साक्षी को मौखिक साक्ष्य के दौरान ऐसा कोई सुझाव भी नहीं दिया गया है कि प्रार्थी ने विभाग में दिनांक 11.3.1993 से दिनांक 1.1.2003 तक अखण्ड रूप से लगातार कार्य किया हो अतः मैं इस निष्कर्ष पर हूँ कि याची यह साबित नहीं कर सका है कि दिनांक 11.3.1993 से दिनांक 1.1.2003 तक लगातार कार्य किया है।

21. याची के विद्वान प्रतिनिधि ने बहस की है कि विपक्ष से हाजिरी रजिस्टर और वेतन भुगतान रजिस्टर की माँग की गयी थी जो पूर्ण रूप से नहीं प्रस्तुत है अतः विपक्ष के विरुद्ध धारा 114 साक्ष्य अधिनियम के अन्तर्गत प्रतिकूल अवधारणा ग्रहण होनी चाहिए इसके विरुद्ध विपक्ष द्वारा प्रतिवाद किया गया है कि प्रार्थी किसी भी वर्ष में 240 दिन लगातार कार्य नहीं किया तथा जो अभिलेख उपलब्ध थे उसे प्रस्तुत किया गया है। यह भी कहा गया है कि प्रार्थी का कोई रिकार्ड नहीं रखा जाता था तथा उसे उपस्थिति के अनुसार भुगतान कर दिया जाता था। जहाँ तक धारा 114 साक्ष्य अधिनियम के अन्तर्गत प्रतिकूल अवधारणा ग्रहण किये जाने का प्रश्न है इस सम्बन्ध में माननीय सर्वोच्च न्यायालय द्वारा 2006, सुप्रीम कोर्ट (एल.एण्ड एस.) पृष्ठ 38 में दी गयी विधि व्यवस्था प्रासंगिक एवं उल्लेखनीय है।

22. 2006 सुप्रीम कोर्ट (एल.एण्ड एस.), 38, सुरेन्द्र नगर जिला पंचायत – अपीलार्थी बनाम दहयाभाई अमर सिंह – प्रत्यर्थी में प्रकरण के तथ्यानुसार प्रत्यर्थी की सेवा 15.8.85 के आदेश से समाप्त कर दी गयी थी। सेवा समाप्ति के लगभग सात साल बाद दिनांक 01.6.92 को प्रत्यर्थी ने अपीलार्थी को सेवा में पुनर्स्थापना की नोटिस भेजी और अन्ततः प्रत्यर्थी की सेवा समाप्ति का विवाद न्यायनिर्णयन हेतु औद्योगिक न्यायाधिकरण को सुपुर्द किया गया।

प्रत्यर्थी ने अपने स्टेटमेन्ट ऑफ क्लेम में यह उल्लेख किया कि वह सेवा समाप्ति के आदेश दिनांक 15.8.85 तक 10/- रुपये दैनिक मजदूरी पर अपीलार्थी की सेवा में था एवं सेवा समाप्ति के आदेश निर्गत होने के पूर्व औद्योगिक विवाद अधिनियम के प्राविधानों का पालन नहीं किया गया। श्रम न्यायालय के समक्ष प्रत्यर्थी की तरफ से एक आवेदन अपीलार्थी को निर्देश जारी करने के लिए प्रस्तुत हुई कि अपीलार्थी 1976 से 1986 तक की सेवा अवधि का वेतन रजिस्टर एवं मस्टर रोल प्रस्तुत करें। अपीलार्थी ने स्टेटमेन्ट ऑफ क्लेम के विरुद्ध यह कथन प्रस्तुत किया कि प्रत्यर्थी स्वयं काम पर आना बन्द कर दिया एवं उसे कोई स्थायी नियुक्ति नहीं दी गयी थी। वह मुतफर्का कार्यों के लिए नियुक्त था तथा जब काम होता था तो उसे बुला लिया जाता था। यह भी कहा गया कि कर्मचारी ने सेवासमाप्ति के ठीक पूर्व पूर्ववर्ती 12 माहों में 240 दिन तक लगातार कार्य नहीं किया है। यह भी कहा गया कि उसने सन् 82, 83 और 84 में क्रमशः 114, 63 और 124 दिन कार्य किया है अतः

उसकी सेवाएं समाप्त करने के पूर्व धारा 25 (एफ) औद्योगिक विवाद अधिनियम में दी गयी प्रक्रिया का अनुपालन करने की विधिक आवश्यकता नहीं थी।

प्रत्यर्थी ने स्वयं को साक्ष्य में प्रस्तुत कर सशपथ कहा है कि वह दस साल तक 470/-रुपये प्रतिमाह के वेतन पर नियुक्त था। अपीलार्थी की तरफ से एक कर्मचारी ने साक्ष्य में उपस्थित होकर कहा कि कर्मचारी ने कभी भी एक वर्ष में 240 दिन काम नहीं किया। श्रम न्यायालय ने प्रत्यर्थी के साक्ष्य पर भरोसा किया और मस्टर रोल तथा 1976 से 86 तक की वेतन रजिस्टर न प्रस्तुत करने पर प्रतिकूल अवधारणा ग्रहण कर यह अवधारित किया कि प्रत्यर्थी ने 240 दिन से ज्यादा कार्य किया अतः उसकी सेवामुक्ति अवैधानिक थी। श्रम न्यायालय ने धारा 25 (एफ), 25 (जी) एवं 25 (एच) की प्रक्रिया का पालन न करने के कारण कर्मचारी को पुनर्स्थापना के लिए आदेशित किया एवं साथ ही पिछले वेतन की 20 प्रतिशत धनराशि अदा करने का निर्देश दिया।

माननीय उच्च न्यायालय की एकलपीठ ने श्रम न्यायालय के निर्णय की पुष्टि की तथा श्रम न्यायालय के निर्णय के विरुद्ध अपीलार्थी की याचिका खारिज की। एकल पीठ के निर्णय के विरुद्ध माननीय उच्च न्यायालय की खण्डपीठ ने लेटर्स पेटेंट अपील निरस्त की एवं यह अवधारित किया कि श्रम न्यायालय ने सही अवधारित किया है कि कर्मचारी ने मौखिक साक्ष्य से अपने कथन साबित किया है। माननीय खण्डपीठ ने श्रम न्यायालय द्वारा वेतन पंजिका, मस्टर रोल, तथा कर्मचारियों की वरिष्ठता सूची न प्रस्तुत करने पर ग्रहण की गयी प्रतिकूल अवधारणा को भी सही ठहराया। श्रम न्यायालय ने यह भी अवधारित किया कि प्रत्यर्थी की तुलना में एवं कनिष्क कर्मचारी की सेवा नियमित रूप से जारी रखी गयी और प्रत्यर्थी की सेवा समाप्त कर दी गयी। माननीय सर्वोच्च न्यायालय के समक्ष माननीय उच्च न्यायालय की खण्डपीठ के निर्णय के विरुद्ध अपीलार्थी की यह बहस थी कि माननीय सर्वोच्च न्यायालय ने अपने अनेक निर्णयों में अत्यन्त स्पष्ट रूप से यह अवधारित किया है कि प्रारम्भिक तौर पर सिद्ध करने का दायित्व कर्मचारी पर है कि सेवा समाप्ति की तिथि के पूर्व एक वर्ष में कर्मचारी ने 240 दिन कार्य किया है जो दायित्व निर्वाह करने में कर्मचारी असफल रहा है। यह बहस भी की गयी कि 10 साल का अभिलेख प्रस्तुत न करने पर प्रतिकूल अवधारणा ग्रहण करने की कोई वजह नहीं थी। प्रत्यर्थी की तरफ से यह बहस की गयी श्रम न्यायालय ने प्रतिकूल अवधारणा अभिलेखों के सम्बन्ध में ग्रहण करके श्रम न्यायालय ने सही किया है क्योंकि नियोजक के कब्जे में अभिलेख थे अतः श्रम न्यायालय द्वारा मांग किये जाने पर उसे प्रस्तुत करना नियोक्ता का कर्तव्य था। यह बहस भी की गयी कि अभिलेख नियोक्ता के कब्जे में है इसलिए उसका दायित्व है कि वह सिद्ध करे कि सम्बन्धित अवधि में कर्मचारी ने 240 दिन कार्य नहीं किया है।

उभयपक्ष की उक्त बहस के परिपेक्ष्य में माननीय सर्वोच्च न्यायालय ने धारा 2 (ओओ), धारा 25 (बी) एवं 25 (एफ) की स्पष्ट एवं बोधगम्य व्याख्या करते हुए प्रस्तर 8 पृष्ठ 43 में कर्मचारी द्वारा तथ्यों को सिद्ध करने के दायित्व के सम्बन्ध में तथा छटनी की वैधानिकता के सम्बन्ध में यह अवधारित किया है, “To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a

workman within the meaning of Section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by Section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of Section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of Section 25-F of the Act.

The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:-

- (i) one month's clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) payment of retrenchment compensation which shall be equivalent to 15 day's average pay for every completed year of continuous service or any part thereof, in excess of six months;
- (iii) a notice to the appropriate Government in the prescribed manner.”

माननीय सर्वोच्च न्यायालय ने प्रस्तर 10 में (1980) 4 एस.सी.सी पृष्ठ 443, सुरेन्द्र कुमार वर्मा बनाम सेन्ट्रल गर्वमेंट इण्डस्ट्रीयल ट्रिब्यूनल कम लेबर कोर्ट में अपने पूर्णपीठ के फेसले सहित अनेक फेसलों का उल्लेख एवं उनकी व्याख्या करते हुए यह अवधारित किया है कि यह सिद्धान्त है कि सिद्ध करने का दायित्व कर्मचारी पर है कि वह दर्शाये कि कथित छटनी की तिथि के ठीक पूर्व एक वर्ष में उसने 240 दिन कार्य किया है और यह दायित्व भी उसी पर है वह स्वयं के साक्ष्य में परिक्षित कराने के अतिरिक्त साक्ष्य प्रस्तुत करें।

निर्णय के प्रस्तर 18 में माननीय सर्वोच्च न्यायालय ने उल्लेख किया है कि प्रत्यर्थी की तरफ से मौखिक साक्ष्य के अतिरिक्त कोई साक्ष्य 240 दिन कार्य करने के सम्बन्ध में नहीं प्रस्तुत किया गया है, न वेतन या मजदूरी के सम्बन्ध में कोई रसीद, या अभिलेख या आदेश प्रस्तुत है, न कोई सहकर्मचारी परिक्षित कराया गया, न ही नियोक्ता द्वारा प्रस्तुत मस्टर-रोल पर कोई खण्डन प्रस्तुत किया गया।

माननीय सर्वोच्च न्यायालय ने यह भी उल्लेख किया है कि यह असम्भव है कि कर्मचारी जो इतनी लम्बी सेवा करने का दावा करता है उसके पास नियोक्ता के अधीन सेवा में लगे रहने तथा कार्य की प्रकृति के सम्बन्ध में कोई अभिलेखीय साक्ष्य नहीं होगा। माननीय सर्वोच्च न्यायालय ने अवधारित किया कि कर्मचारी ने 240 दिन तक कार्य में संलग्न रहने के तथ्य को सिद्ध करने के दायित्व का निर्वाह नहीं किया है एवं विद्वान अधीनस्थ न्यायालयों ने नियोक्ता द्वारा 10 वर्ष का अभिलेख न प्रस्तुत करने के सम्बन्ध में प्रतिकूल अवधारणा गलत ग्रहण की है। माननीय सर्वोच्च न्यायालय ने यह अवधारित किया कि प्रत्यर्थी की सेवा समाप्ति के पूर्व प्रत्यर्थी को धारा 25 (एफ) की सुरक्षा अथवा अनुपालन का अधिकार नहीं था।

धारा 25 (जी) एवं 25 (एच) के अनुपालन के सम्बन्ध में यह साक्ष्य था कि दैनिक वेतन भोगी की सूची का रखरखाव अपीलार्थी द्वारा नहीं किया जाता। इस सम्बन्ध में माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है कि कर्मचारी नियमित सेवा के अभाव में अपीलार्थी से दैनिक वेतन भोगियों की वरिष्ठता सूची के रख रखाव की उम्मीद नहीं की जा सकती है। अभिलेखों की मॉग पर अपीलार्थी द्वारा न प्रस्तुत किये जाने पर धारा 114 (III) (जी) भारतीय साक्ष्य अधिनियम के अन्तर्गत न्यायालय द्वारा प्रतिकूल अवधारणा ग्रहण किये जाने के सम्बन्ध में माननीय सर्वोच्च न्यायालय ने यह अवधारित किया है ऐसी अवधारणा ग्रहण करने पूर्व न्यायालय के समक्ष कर्मचारी द्वारा इस बात का साक्ष्य प्रस्तुत करना होगा कि कोई वरिष्ठता सूची अस्तित्व में है अन्यथा प्रतिकूल अवधारणा ग्रहण करने की अनुमति नहीं प्रदान की जा सकती। न्यायालय द्वारा प्रतिकूल अवधारणा ग्रहण करने हेतु अधिकार प्रदत्त होने के लिए न्यायालय को सन्तुष्ट होना अनिवार्य है कि साक्ष्य अस्तित्व में है और उसे सिद्ध किया जा सकता था। माननीय सर्वोच्च न्यायालय ने तदनुसार अपील स्वीकार की।

2006 सुप्रीम कोर्ट (एल.एण्ड एस.), 38, सुरेन्द्र नगर जिला पंचायत – अपीलार्थी बनाम दहयाभाई अमर सिंह – प्रत्यर्थी में दी गयी उक्त व्यवस्था के अवलोकन से यह स्पष्ट है कि धारा 114 भारतीय साक्ष्य अधिनियम के अन्तर्गत प्रतिकूल अवधारणा ग्रहण करने के लिए यह आवश्यक है कि सम्बन्धित पक्षकार को पहले यह दर्शाना आवश्यक है कि विपक्ष के पास वाञ्छित अभिलेखों की उपलब्धता है। वर्तमान मामले में याची ऐसा दर्शाने में असफल है अतः मैं इस निष्कर्ष पर हूँ कि प्रार्थी के पक्ष में विपक्षी के विरुद्ध प्रतिकूल अवधारणा ग्रहण करने के लिए कोई स्थिति नहीं बनती है।

23. विपक्ष द्वारा प्रार्थी की हाजिरी से सम्बन्धित प्रस्तुत उपस्थिति पंजिका की प्रमाणित फोटोप्रतियों के अवलोकन से भी इस तथ्य का समर्थन नहीं होता है कि प्रार्थी कर्मकार दिनांक 11.3.1993 से दिनांक 1.1.2003 तक ड्राईवर-कम-चतुर्थ श्रेणी कर्मचारी के रूप में कार्य करने के तथ्य को सिद्ध कर सका है।

24. जहां तक धारा 25 एफ औद्योगिक विवाद अधिनियम के सन्दर्भ में प्रार्थी कर्मकार द्वारा सेवामुक्ति की तिथि 1.1.2003 की ठीक पूर्व कलेण्डर वर्ष में 240 दिन तक लगातार कार्य किये जाने के तथ्य को सिद्ध करने का प्रश्न है इस सन्दर्भ में प्रार्थी द्वारा प्रस्तुत प्रमाण पत्र प्रदर्श डब्ल्यू 16 प्रासंगिक है जो सेवामुक्ति की तिथि के बाद की तिथि 8.1.2003 को निर्गत है। इस प्रमाण पत्र में यह उल्लेख है कि प्रार्थी ने विपक्षी के यहां पांच वर्ष तक कार्यालय में कार्य किया है। यह प्रमाण पत्र सक्षम अधिकारी द्वारा निर्गत जाहिर होता है। इससे इस तथ्य की पुष्टि होती है कि सेवामुक्ति की तिथि 1.1.2003 के ठीक पूर्व प्रार्थी ने लगभग पाँच साल तक विपक्षी के यहां कार्य किया है जो तिथि 1.1.1998 बनती है और प्रार्थी को प्रदर्श डब्ल्यू 15 के माध्यम से 10.3.98 से दैनिक वेतन भोगी के रूप में एक माह की अवधि के लिए नियुक्ति दी गयी है जो रविवारीय अवकाश को छोड़कर है। विपक्षी साक्षी श्री विजय सिंह, अधीक्षक, निवारक एवं आसूचना प्रकोष्ठ की प्रदर्श डब्ल्यू 16 को दिखाकर प्रतिपरीक्षा की गयी है जिसमें विभाग द्वारा इसे जारी करने के सम्बन्ध में कोई

स्पष्ट इन्कार नहीं किया गया है। अतः प्रदर्श डब्ल्यू 16 को स्वीकार करने में कोई विधिक अड़चन नहीं है। प्रदर्श डब्ल्यू 16 के सम्बन्ध में साक्षी ने कहा है कि साक्षी यह नहीं कह सकता कि प्रदर्श डब्ल्यू 16 उसके विभाग द्वारा जारी किया गया है या नहीं क्योंकि इस पर कोई पत्रावली संख्या इत्यादि अंकित नहीं है। पत्रावली संख्या अंकित करने का कार्य लिपिकीय कार्य है जिसे सम्बन्धित लिपिक द्वारा न करने से प्रमाण पत्र को अमान्य नहीं किया जा सकता। विपक्ष द्वारा प्रमाण पत्र के सम्बन्ध में स्पष्ट अस्वीकृति के अभाव में प्रमाण पत्र प्रार्थी के पक्ष में साक्ष्य में ग्रहण किये जाने योग्य है क्योंकि उसके गलत या फर्जी होने के सम्बन्ध में कोई कथन नहीं किया गया है और इसकी प्रति विपक्ष को दिनांक 7.12.2010 को प्राप्त करायी गयी है। दिनांक 7.12.2010 से अबतक विपक्ष द्वारा इस अभिलेख के सम्बन्ध में कोई प्रतिकूल कथन नहीं किया गया है। याची ने प्रदर्श डब्ल्यू 16 के सम्बन्ध में प्रतिपरीक्षा में यह उल्लेख किया है कि इसे विभाग वालों ने दिया था। याची पक्ष की तरफ से इस सम्बन्ध में प्रस्तुत दृष्टान्त 2005 ए.आई.आर. एस.सी.डब्ल्यू पृष्ठ 6103 आर. एम.येल्लाट्टी –अपीलार्थी बनाम असिस्टेन्ट एक्जीक्यूटिव इंजीनियर –प्रत्यर्थी, प्रासंगिक एवं उल्लेखनीय है।

25. 2005 ए.आई.आर. एस.सी.डब्ल्यू पृष्ठ 6103 आर.एम.येल्लाट्टी –अपीलार्थी बनाम असिस्टेन्ट एक्जीक्यूटिव इंजीनियर –प्रत्यर्थी में अपीलार्थी दैनिक वेतन भोगी के रूप में दिनांक 26.11.88 को नियुक्त हुआ और दिनांक 20.6.94 तक कार्य किया। दिनांक 20.6.94 को उसकी सेवा समाप्त कर दी गयी। उसका कहना था कि दिनांक 20.6.94 के पूर्व उसने 240 दिन तक लगातार सेवा की थी अतः सेवासमाप्ति में धारा 25–एफ औद्योगिक विवाद अधिनियम का उल्लंघन किया गया, इस प्रकार उसकी सेवा समाप्ति अवैध छंटनी थी अतः उसे सेवा में पुनर्स्थापित किया जाय तथा सेवा समाप्ति का आदेश निरस्त किया जाय। विपक्ष द्वारा वादोत्तर में यह कहा गया कि अपीलार्थी धारा 2(एस) की परिभाषा के अनुसार “कर्मकार” नहीं है अतः धारा 25–एफ का लाभ पाने का हकदार नहीं है। यह भी कहा गया कि विपक्षी “सिचाई विभाग” “उद्योग” की परिभाषा से आच्छादित नहीं है इसलिए धारा 25–एफ के अनुपालन की आवश्यकता नहीं है। सहायक अधिषासी अभियन्ता ने अपीलार्थी को इस आशय का सेवा प्रमाण–पत्र जारी किया था कि अपीलार्थी ने दिनांक 24.11.88 से दिनांक 20.6.94 तक सेवा की है। श्रम न्यायालय ने उभयपक्ष की सुनवाई के बाद यह अवधारित किया कि अपीलार्थी “कर्मकार” था तथा दैनिक वेतन भोगी के रूप में नियुक्त था। श्रम न्यायालय ने यह भी अवधारित किया कि सहायक अधिषासी अभियन्ता द्वारा दिनांक 24.11.88 से दिनांक 20.6.94 तक की अवधि में के लिए कार्य प्रमाण–पत्र को अविश्वास करने का कोई कारण नहीं था एवं उक्त प्रमाण–पत्र को साक्ष्य से प्रमाणित माना। श्रम न्यायालय ने यह भी पाया कि विपक्ष ने महत्वपूर्ण साक्ष्य को दबाया। श्रम न्यायालय ने 50 प्रतिशत विगत वेतन के साथ अपीलार्थी को सेवा में पुनर्स्थापित करने का निर्देश दिया जिसके विरुद्ध रिट याचिका माननीय उच्च न्यायालय द्वारा निरस्त की गयी। रिट याचिका में निर्णय के विरुद्ध रिट अपील में माननीय उच्च न्यायालय की खण्डपीठ ने अपील स्वीकार की और यह अवधारित किया कि पत्रावली पर कोई साक्ष्य नहीं था कि सेवा का प्रमाण–पत्र सहायक अधिषासी अभियन्ता द्वारा जारी किया गया था तथा विभाग द्वारा प्रस्तुत रिकार्ड से यह जाहिर हुआ था

कि कार्य प्रमाण-पत्र एक जालसाजी से तैयार किया गया अभिलेख था तथा प्रमाण-पत्र में कहीं उल्लेख नहीं था कि 240 दिन की सेवा लगातार की गयी। माननीय खण्डपीठ ने यह भी पाया कि अपीलार्थी द्वारा नियुक्ति पत्र एवं सेवा समाप्ति का पत्र तथा वेतन प्रमाण-पत्र भी नहीं प्रस्तुत किया गया था। माननीय खण्डपीठ ने यह भी पाया कि अपीलार्थी के एक साक्षी के रूप में अपने कथन के अतिरिक्त उसके कथन को समर्थित करने का कोई साक्ष्य पत्रावली पर नहीं था। माननीय उच्च न्यायालय की खण्डपीठ के निर्णय के विरुद्ध अपील माननीय सर्वोच्च न्यायालय ने स्वीकार की तथा सहायक अधिवासी अभियन्ता द्वारा अपीलार्थी की सेवा के सम्बन्ध में प्रस्तुत प्रमाण-पत्र को श्रम न्यायालय द्वारा विश्वसनीय मानने के निष्कर्ष की पुष्टि की। यह भी अवधारित किया कि प्रमाण-पत्र को न मानने के सम्बन्ध में माननीय खण्डपीठ ने कोई कारण नहीं दिया है। वर्तमान मामले में उक्त दृष्टान्त में दी गयी विधि व्यवस्था अनुकरणीय है एवं लागू होती है। उक्त व्याख्या व विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि प्रार्थी की सेवामुक्ति धारा 25 एफ के प्राविधान के उल्लंघन में की गयी है। विपक्ष इस तथ्य को सिद्ध करने में सफल नहीं है कि याची कार्य न होने के कारण स्वतः कार्य छोड़कर चला गया जैसा कि शपथ-पत्र के प्रस्तर 3 में और लिखित बहस में विपक्ष द्वारा कहा गया है। प्रार्थी द्वारा सेवा में नियमित करने हेतु पत्रावली पर प्रस्तुत एवं विपक्ष को सम्बोधित अनेक प्रतिवेदनों की फोटोप्रतियों के अवलोकन से इस तथ्य को बल नहीं मिलता कि प्रार्थी स्वयं कार्य छोड़कर गया और विपक्ष का इस सम्बन्ध में कथन स्वीकार करने योग्य नहीं है।

26. प्रार्थी पक्ष की तरफ से प्रस्तुत दृष्टान्त 2005 लैब.आई.सी. 2279 (सर्वोच्च न्यायालय), बैंक ऑफ बडौदा -अपीलार्थी बनाम घेमारभाई हरजीबाई रबडी -प्रत्यार्थी के मामले में प्रत्यर्थी ने केन्द्रीय औद्योगिक न्यायाधिकरण अहमदाबाद के समक्ष यह दावा प्रस्तुत किया कि वह अपीलार्थी बैंक में 1500 रुपये मासिक वेतन पर चालक के पद पर नियुक्त था तथा बैंक की उस कार को चलाता था जो बैंक के अधिकारी श्री मेनन को आवंटित थी। उसने जून 1994 से अक्टूबर 1995 तक कार्य किया एवं उसकी सेवायें बिना किसी क्षतिपूर्ति की अदायगी किये धारा 25-एफ, धारा 25-जी एवं धारा 25-एच औद्योगिक विवाद अधिनियम के उल्लंघन में विधि विरुद्ध समाप्त कर दी गयी। याची ने सम्पूर्ण विगत वेतन के साथ सेवा में पुनर्स्थापना की याचना की। बैंक ने प्रत्यर्थी के बैंक की सेवा में होने से इन्कार किया। बैंक ने यह कथन प्रस्तुत किया कि बैंक की स्कीम के अनुसार कुछ अधिकारियों को एक कार बैंक ने आवंटित किया परन्तु कार के लिए चालक की सुविधा नहीं दी तथा आवंटित कार पर चालक रखने की जिम्मेदारी सम्बन्धित अधिकारी की है। यह भी कहा गया कि सम्बन्धित अधिकारी के स्थानान्तरण या सेवानिवृत्ति पर सम्बन्धित चालक की सेवा स्वतः समाप्त हो जाती है। इस प्रकार चालक बैंक का कर्मचारी नहीं था। बैंक ने यह स्वीकार किया कि जो भुगतान 1500 रुपये मासिक अधिकारी ने चालक को किया उसकी प्रतिपूर्ति बैंक द्वारा अधिकारी को की जाती है। बैंक के कथनानुसार यह योजना कई राष्ट्रीयकृत बैंकों में लागू है एवं ऐसे वाहनों के चालक सम्बन्धित अधिकारी के वैयक्तिक कर्मचारी है। न्यायाधिकरण ने यह पाया कि प्रार्थी द्वारा प्रस्तुत भुगतान वाउचर से यह जाहिर था कि उसे 1500 रुपये भुगतान वेतन के मद में किया गया था तथा उसने यह भी साबित किया

था कि उसने लगातार दिनांक 17.7.1994 से 10.10.95 तक सेवा की थी। न्यायाधिकरण ने यह भी पाया कि बैंक ने ऐसी कोई सामग्री न्यायाधिकरण के समक्ष नहीं प्रस्तुत की जिससे उनकी योजना साबित हो सके जिसके सम्बन्ध में उन्होंने कहा था कि उनकी योजना के अन्तर्गत बैंक अधिकारी को चालकरहित कार आवंटित होती है और यदि अधिकारी कोई चालक रखता है तो उसकी प्रतिपूर्ति बैंक द्वारा अधिकारी को की जाती है तथा अधिकारी के स्थानान्तरण अथवा सेवानिवृत्ति के साथ चालक की सेवा स्वतः समाप्त हो जाती है। कर्मकार द्वारा प्रस्तुत भुगतान वाउचर के विरुद्ध भी बैंक द्वारा कोई खण्डन प्रस्तुत नहीं था अतः अधिकरण ने पंचाट कर्मकार के पक्ष में पारित किया जिसके विरुद्ध अपीलार्थी बैंक की चुनौती माननीय एकलपीठ एवं खण्डपीठ के समक्ष असफल हुई। माननीय खण्डपीठ के निर्णय के विरुद्ध अपील माननीय सर्वोच्च न्यायालय ने खारिज की। माननीय सर्वोच्च न्यायालय ने यह अवधारित किया कि कर्मकार द्वारा चालक के रूप में लगातार 240 दिन कार्य करने के तथ्य को बैंक द्वारा इन्कार नहीं किया गया है और बैंक द्वारा बतायी गयी योजना को साबित करने के लिए कोई साक्षी नहीं प्रस्तुत किया गया था। उक्त दृष्टान्त से याची तुलसीराम के मामले में कोई मदद नहीं मिलती क्योंकि याची की वास्तव में मूल नियुक्ति सफाई कार्य के लिए ही हुई थी और केवल कभी-कभी ही उससे चालक का कार्य नियमित चालक के न होने पर लिया गया है। इससे यह नहीं कहा जा सकता कि उसे चालक की सेवा में रखा गया था और उसे चालक के पद पर पुनर्स्थापित होने का हक है। उक्त दृष्टान्त से प्रार्थी के पक्ष में कोई मदद नहीं ली जा सकती। पक्षकारों के अभिवचनों तथा उसके समर्थन में प्रदत्त साक्ष्य की उक्त व्याख्या एवं विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि याची कर्मकार विपक्षी के यहां "सफाई वाला" के पद पर नियुक्त एवं कार्यरत था और सेवामुक्ति की तिथि से लगभग पॉच वर्ष पूर्व तक सफाई वाला के पद पर कार्य करने के तथ्य को साबित किया है और इस तथ्य को सिद्ध करने में सफल नहीं है कि उसने दिनांक 11.3.1993 से दिनांक 1.1.2003 तक ड्राईवर-कम-चतुर्थ श्रेणी कर्मचारी के रूप में कार्य किया है।

27. जहाँ तक धारा 25 एफ में उल्लंघन के परिणामस्वरूप प्रार्थी कर्मकार की सेवा से विधि विरुद्ध बर्खास्तगी के कारण नियोजक से राहत पाने का प्रश्न है इस सन्दर्भ में उल्लेखनीय है कि बर्खास्तगी की तिथि से सेवा में पुनर्स्थापित होने की तिथि तक चालीस प्रतिशत विगत वेतन एवं सेवा की निरन्तरता के साथ यदि कर्मकार को सेवा में पुनर्स्थापित किया जाय तो न्यायाधिकरण की राय में सम्बन्धित परिस्थितियों में यह राहत की पर्याप्त मात्रा होगी तथा इससे न्यायिक उद्देश्य की पूर्ति हो सकेगी।

28. याची द्वारा याचिका के प्रस्तर 9 में धारा 25 जी औद्योगिक विवाद अधिनियम के उल्लंघन का आधार भी लिया गया है लेकिन ऐसा कोई उल्लेख नहीं किया गया है कि प्रार्थी की तुलना में किस कनिष्ठ कर्मचारी को सेवा में रखा गया और प्रार्थी को सेवामुक्त कर दिया गया। साक्ष्य में प्रार्थी द्वारा प्रस्तुत शपथ पत्र में भी धारा 25 जी के उल्लंघन के सम्बन्ध में कोई कथन नहीं है। अतः मैं इस निष्कर्ष पर हूँ कि प्रार्थी की सेवामुक्ति में धारा 25 जी का कोई उल्लंघन नहीं है। धारा 25 एच के उल्लंघन के सम्बन्ध में भी अभिकथन किया गया है लेकिन इसके विरुद्ध याची ने कोई सकारात्मक साक्ष्य नहीं प्रस्तुत किया है।

29. पक्षकारों के अभिवचनों तथा उसके समर्थन में पक्षकारों द्वारा प्रस्तुत प्रलेखीय एवं मौखिक साक्ष्य की उक्त व्याख्या एवं विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि से दिनांक 1.1.2003 से अधीक्षक, केन्द्रीय नारकोटिक्स ब्यूरो, राजस्थान, कोटा / अधीक्षक (नि.) निवारक एवं आसूचना प्रकोष्ठ, केन्द्रीय नारकोटिक्स ब्यूरो, उदयपुर के द्वारा अपने कर्मकार श्री तुलसी राम पुत्र श्री लालूराम गमेती, दैनिक वेतन भोगी सफाई वाला की सेवा से बर्खास्तगी धारा 25 एफ औद्योगिक विवाद अधिनियम के उल्लंघन में होने के कारण न्यायोचित एवं विधि सम्मत नहीं है। प्रार्थी कर्मकार को बर्खास्तगी की तिथि से सेवा में पुनर्स्थापित होने की तिथि तक चालीस प्रतिशत विगत वेतन एवं सेवा की निरन्तरता के साथ विपक्षी की सेवा में सफाई वाला के पद पर उसे पुनर्स्थापित किया जाता है एवं विपक्षी को आदिष्ट किया जाता है कि पंचाट की अधिसूचना प्राप्त होने के दो माह के अन्दर प्रार्थी को सेवा में पुनर्स्थापित करें। प्रार्थी की सेवासमाप्ति तदनुसार निरस्त की जाती है। प्रार्थी की स्टेटमेन्ट आफ क्लेम में याचित अनुतोष तदनुसार स्वीकार किये जाते हैं। न्यायनिर्णयन हेतु प्रेषित निर्देश का उत्तर उक्त प्रकार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

30. पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17 (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाय।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 14 मार्च, 2016

का.आ. 543.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 39/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.03.2016 को प्राप्त हुआ था।

[सं. एल-12012/12/2007-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 14th March, 2016

S.O. 543.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 39/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of Union Bank of India and their workmen, received by the Central Government on 14.03.2016.

[No. L-12012/12/2007-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
KANPUR**

Industrial Dispute No. 39 of 2007

Between-

Smt. Kalpana w/o Kamal,
House No. 3, Mohalla Sati,
District Etawah

And

The Branch Manager,
Union Bank of India,
Branch Etawah,
Etawah.

AWARD

1. Central Government, Mol, New Delhi vide notification No. L-12012/12/2007-IR(B-II) dated 31.08.07, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Union Bank of India in refusing employment of Smt. Kalpana (part time sweeper) w.e.f. 29.6.05, is legal and justified? If not, to what relief the workman concerned is entitled?

3. In short the case of the worker is that she was appointed as sweeper by the opposite party on 07.10.97 at Etawah Branch, Etawah, and before appointment the bank called application supported with relevant documents which were examined. Although the nomenclature of the post was sweeper but she was being used to work for whole day by the bank and apart from the work of sweeper work of peon was also taken from her. Her services were determined by the bank with effect from 29.06.05, without making compliance of section 25F of the Act. It is also alleged that she had continuously worked for more than 240 days in each calendar year from the date of her appointment till the date of her termination of service. Her oral termination of service is illegal inasmuch as at the time of termination she was neither given any notice, nor notice pay nor retrenchment compensation. Thus it has been prayed by her that she is entitled to be reinstated in the service of bank with full back wages continuity of service and with all consequential benefits.

4. The bank refuted the claim of the worker on the ground that there remained never relationship of master and servant between the bank and worker, she was engaged only for some specific work for which she was compensated as per mutually agreed terms and it is also stated that mere engagement of any person for some specific work does not confer upon him any legitimate right to claim regular and permanent employment. The present matter does not fall within the term Industrial Dispute as defined under

section 2(k) of the Act. Worker had never been subjected for regular selection against any regular post in the bank, therefore, no right had accrued in her favor to claim reinstatement in the service of the bank. It has also been denied by the bank that the worker at any point of time was appointed as part time sweeper and she had rendered only casual services for which she was paid by the bank. On the basis of above it has been alleged by the bank that no right had accrued in her favor to claim reinstatement and also she is not entitled for any compensation as the bank had never violated the provisions of section 25F of the Act in the case of the worker. Therefore, the claim of the worker is liable to be dismissed being devoid of merit.

5. Claimant Kalpana has examined herself as w.w.1 whereas management has examined Arun Kumar Mishra as M.W.1 the branch manager of the bank. Both the parties have also filed documents which shall be discussed at the appropriate stage.

6. I have heard the representatives for both the parties and have also perused the records.

7. Learned representative for the management contended that claimant Smt. Kalpana has filed this claim petition against her termination on the ground that her services were terminated on 29.06.05, despite she has completed 240 days continuous service in each calendar year from 07.10.97 that is the date of her appointment as sweeper and she was not given any notice nor retrenchment compensation, but the schedule of reference referred in this case speaks otherwise i.e. whether the action of the management in refusing employment of Smt. Kalpana (part time sweeper) w.e.f. 29.06.05. This clearly shows that reference is not on the subject of termination of the service of Smt. Kalpana.

8. It is pertinent to point out here that when the contents of claim statement are viewed in the light of schedule of reference order it becomes quite obvious that the claim petition is completely contrary to the reference order and there is no mention in the claim petition of worker that the management ever refused her for employment and reference order also does not speak about the termination of service of the worker with effect 29.06.05.

9. As such the tribunal finds that the reference order has not been properly worded in as much as schedule of reference order does not meet the ingredients of term retrenchment as defined under section 2-A of the Act, as such the worker cannot be given any relief with regard to the present reference order.

10. Besides this Smt. Kalpana is shown as part time sweeper whereas in the claim statement she has pleaded that she was appointed as sweeper on 09.10.97 and she used to work for whole day and was performing the duties of additional peon. As such she has shown herself as full

time sweeper against the genesis of the schedule of reference order.

11. Be that as it may, the claimant as w.w.1 has stated that she was performing the duties of sweeping only and was paid through cash vouchers. She has told age in her statement as 30 years on the date of recording her statement on 12.10.12 but in her cross examination she has stated to be 30 years in 1997. It also shows that she was over age in 1997 and could not get appointment as sweeper. She has stated in her statement that after her removal from service one Prem Chandra was appointed in her place but in cross examination she has stated that she does not know whether person by name Prem Chandra was appointed sweeper or not. She has further stated that she has filed vouchers to show that she has worked for more than 240 days of continuous service preceding 12 calendar months from the date of her termination from service.

12. In this case worker has also summoned vouchers which were filed by the bank which makes it clear that no voucher is filed for the month of June 05 and by calculating the dates it is very much clear that worker has failed to prove that she had worked for more than 240 days of continuous service before 12 preceding months from the date of termination or in any year.

13. In this regard M.W.1 Sri A K Mishra has also stated that in his branch there was no sanctioned post of part time sweeper and sweeping work was taken from the persons available in the open market and management has also filed paper no.25/1-38 as were summoned by the worker.

14. Therefore, on the basis of above discussion, the tribunal is of the opinion that the reference is not properly worded so as to come it within the definition of section 2-A of the Act i.e. retrenchment. Worker has also failed to prove that she had worked for 240 days of continuous service preceding 12 calendar months from the date of termination of service i.e. 29.06.05, though the reference is not on the subject of termination of the service of Smt. Kalpana, therefore, she is not entitled for any relief as claimed by her and the reference is answered accordingly against her.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 14 मार्च, 2016

का.आ. 544.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 21/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.03.2016 को प्राप्त हुआ था।

[सं. एल-12012/291/98-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 14th March, 2016

S.O. 544.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of UCO Bank and their workmen, received by the Central Government on 14.03.2016.

[No. L-12012/291/98-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/21/2000

Shri S.K. Bhagat,
S/o Shri Dharmraj Bhagat,
Qr. No. 2/J, Street No. 14,
Sector-6 Bhilai,
Durg (MP)

...Workman

Versus

Branch Manager,
UCO Bank, Sector-I,
Kohak Branch, PO Bhilai,
Distt. Durg (MP)

...Management

AWARD

Passed on this 29th day of January 2016

1. As per letter dated 28-12-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12012/291/98-IR (B-II). The dispute under reference relates to:

“Whether Shri Suresh Kumar Bhagat, so called Personal Driver is an employee of the Bank and a workman under ID Act 1947? Whether his termination of the services w.e.f. 9-6-97 is justified? If not, what relief he is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/3. Case of Ist party workman is that he belongs to SC. He was holding qualification for appointment as Class IV employee. On 6-4-91, he submitted application to Sr. Manager of UCO Bank for post of Driver. He was appointed as personal driver vide order dated 6-4-91. From 6-4-91 to 9-6-97 he was working without break. While working as Driver, he was transferred to Sr. Officer. He had also rendered service as peon in the Bank. He was paid salary and admissible allowance bonus and increments. On 9-6-97, his services were terminated without notice or giving opportunity of hearing. He raised dispute about

termination of his service. Workman reiterates that he was continuously working from 6-4-97 to 9-6-97. Instead of regularizing him in service, 2nd party terminated his services in violation of Section 25-F of ID Act. he had rendered more than 240 days continuous service in each of the calendar year. On such ground, workman prays for setting aside order of his termination.

3. 2nd party filed Written Statement at Page 6/1 to 6/2 opposing claim of workman. Case of 2nd party is the reference is not legal. Workman remained absent on 18-6-98, 2-7-98. No information was received from him, the conciliation proceeding was held exparte. Workman was never in pay role of the Bank. He was personal driver of Branch Manager. As per Bank's guidelines, his pay was reimbursed. As a matter of policy, the facility of Bank car was withdrawn from certain centres. As its consequence, the respective Branch Managers were directed to discontinue availing reimbursement of payment towards personal driver. Directions were also issued to ground the vehicle. The workman was never in employment of Bank. He remained absent. That workman is working as car driver since 28-5-97 in Bharat Industrial work. The certificate is issued by said company on 25-7-98. 2nd party denied that workman Suresh Kumar Bhagat was employed as Driver cum peon in the bank from 6-4-91 to 9-6-97. It is denied that he was paid monthly salary, washing allowance, overtime, bonus, festival etc. from the Bank. There is no employer employee relationship between the parties. Workman was not employed by the Bank. There was no question of payment to him by Bank. That the service of workman Suresh was personal and temporary. His termination after withdrawal of facility in Bank's card is legal management has referred to copy of Bank's circular dated 30-8-96. As per letter by Dy. General Manager dated 27-5-98, salary receipt of Bhilai Sector 1 branch, copy of attendance registers, name of workman is not appearing.

4. Workman submitted rejoinder reiterating his contentions in statement of claim. That he was carrying Officers from Bhopal, Calcutta visiting Bhilai. He was doing different work in the Bank, its documents are available with the Bank. The services were terminated on the basis of anonymous complaint.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) Whether Shri Suresh Kumar Bhagat, so called Personal Driver is an employee of the Bank and a workman under ID Act 1947? | In Affirmative |
| (ii) Whether termination of workman from services w.e.f. 9-6-97 is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. As per pleadings in Written Statement filed by the management, workman was engaged as personal driver of the Branch Manager. Workman filed affidavit of his evidence supporting his contentions in statement of claim that he was working as car driver in the Bank from 6-4-91 to 9-6-97. He was also working as peon. He was paid monthly salary and allowance. He was given annual increments, bonus was paid to him through A/C No. 24355/98. He was getting dress allowance, car washing allowance, overtime allowance, leave increments. He was doing other work in the Bank. Record is with the Bank. He worked more than 240 days during each of the year. As per circular dated 19-10-98 on completion of 3 years service, he was eligible for absorption in subordinate cadre. In his re-examination, workman has proved documents Exhibit W-1 to W-3. Management's counsel remained absent. Workman was not cross-examined. His evidence remained unchallenged.

7. Management did not adduce any evidence to substantiate its contentions.

8. Documents Exhibit W-1 is application submitted by workman dated 6-4-91 disclosing his age, qualification and holding light motor vehicle driving licence. Exhibit W-2 is order dated 6-3-91 workman was appointed as personal driver after absorption of Driver Bahadur. The application alongwith 8th passed marksheet was enclosed with the order. Exhibit W-3 is certificate issued by Sr. Manager Shri K.M. Pandey that workman was satisfactorily working as personal driver from 6-4-91 to 9-6-97.

9. The evidence of workman is corroborated by document Exhibit W-1 to W-3. Workman was continuously working from 6-4-91 to 9-6-97 as personal driver. As per the policy of 2nd party, reimbursed salary paid to workman. when Bank has allowed its policy, facility of car driver and reimbursing salary of personal driver to the officer, workman becomes the employee of the Bank though he was appointed as personal Driver. Therefore I record my finding in Point No.1 in Affirmative.

10. **Point No.2-** Workman was continuously working with Bank as personal driver from April 91 to June 97, documents Exhibit W-1 to W-3 corroborates evidence of workman. His services are terminated without notice. The copy of circular issued by Head office dated 15-5-89 is produced. Said circular clearly shows that the officers provided with Bank's car were engaging personal drivers. Circular further clearly provides that the personal driver completing 5 years service were eligible for absorption as subordinate staff. The salary of personal driver was reimbursed to the officers. The circular is also clear that it was advised that as and when officer go on leave, the car shall continue to be with him/ her only and he need not surrender it to nay authority till such time he/she is required to surrender the car due to change for his her posting or on his/ her retirement.

11. Workman completed more than 240 days service as personal driver. His services were terminated without

notice. Certainly there is violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Negative.

12. **Point No.3-** In view of my finding in Point No.2, termination of service of workman is in violation of Section 25-F of ID Act is illegal, the management has not adduced evidence. The evidence of workman remained unchallenged. Workman as working as personal driver from 6-4-91 to 9-6-97. Reasons for his termination from service are not established by cogent evidence. Therefore claim of workman for reinstatement deserves to be allowed. The affidavit of evidence of workman is silent about what he was doing after termination of his service. Considering above aspects, the workman deserves to be reinstated with 25 % back wages. Accordingly I record my finding in Point No.3.

13. In the result, award is passed as under:-

- (1) Workman Suresh Kumar Bhagat is employee of the Bank. Action of management terminating his service on 9-6-97 is not legal.
- (2) Management is directed to reinstate workman with continuity of service and 25 % backwages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 14 मार्च, 2016

का.आ. 545.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 32/09) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.03.2016 को प्राप्त हुआ था।

[सं. एल-12012/82/2008-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 14th March, 2016

S.O. 545.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/09) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 14.03.2016.

[No. L-12012/82/2008-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/32/09**

Shri Balram S/o Mayaram Burane,
29, Marimata Chouraha,
Distt. Indore

...Workman

Versus

Asstt. General Manager,
Bank of Baroda,
Regional Office,
Ganga Jamuna Complex,
Plot No.202, MP Nagar Zone-I,
Bhopal (MP)

...Management

AWARD

Passed on this 19th day of January, 2016

1. As per letter dated 25-2-09 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-12012/82/2008-IR(B-II). The dispute under reference relates to:

“Whether the claim of the workman that he has completed 240 days of services in a calendar year, his services were terminated w.e.f. 24-4-04 without following the procedure of Industrial Dispute Act, 1947 and he should be reinstated by the management of Bank of Baroda is legal and justified? What relief the concerned workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim dated 27-1-2010. Case of Ist party workman is that he was appointed as peon on 25-9-96, he was continuously working as peon till 3-1-97. He was paid wages Rs. 48 per day. He was not paid minimum wages. He was working in Navlakha branch from 3-6-96 to 24-4-04. He was paid R. 90 per day. His services were orally terminated on 24-4-04. In para 3 of his statement of claim, workman has shown his working days 84 days during 1996, 42 days in 1997, 210 days in 1998, 280 days in 1999, 280 days in 2000, 280 days in 2001, 2002, 337 days in 2003. 98 days till April 2004.

3. Workman reiterates that he completed more than 240 days continuous service. His services were terminated without notice in violation of Section 25-F of ID Act, retrenchment compensation was not paid to him. After termination of his service, he is not in employment. On such ground, workman prays for his reinstatement with backwages.

4. 2nd party management filed Written Statement opposing claim of workman. 2nd party submits that workman was engaged for the work of arranging record. from 11-10-96 to 3-1-97, he was also engaged for the work

of supplying drinking water. He was paid Rs.40 per day. Workman was not appointed following recruitment rules as per the regulations. The engagement of workman on daily wages was ending at end of the day. Workman was engaged as staff gap arrangement. He is not entitled to regular appointment. Workman was not interviewed. That employment in Bank is covered under Article 16 of the constitution. Workman is not entitled to any relief. On such ground, 2nd party prays that reference be answered in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---|
| (i) Whether the claim of the workman that he has completed 240 days of services in a calendar year, his services were terminated w.e.f. 24-4-04 without following the procedure of ID Act is proper and legal? | Termination of workman is not in violation of Section 25-F of ID Act. |
| (ii) If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

6. After reference, statement of claim is filed by workman. management of 2nd party filed Written Statement opposing claim of workman. Workman has failed to participated in reference proceeding. He has not adduced any evidence to substantiate his claim. There is no evidence to support claim of workman that he worked more than 240 days during any of the calendar year. Management has also not adduced any evidence. As claim of workman is not substantiated by evidence, I record my finding in Point No.1 in Negative.

7. In the result, award is passed as under:-

- (1) Workman has not completed 240 days continuous service.
- (2) He is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 14 मार्च, 2016

का.आ. 546.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 26/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.03.2016 को प्राप्त हुआ था।

[सं. एल-12011/40/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 14th March, 2016

S.O. 546.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 14.03.2016.

[No. L-12011/40/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOR COURT, KANPUR**

Industrial Dispute No. 26/2011

Between-

The General Secretary in the
case of (Milap Chandra),
Central Bank Employees Congress,
MIG C-1241, Rajaji Puram,
Lucknow

And

Regional Manager,
Central Bank of India,
Regional Office,
372/18-B, Gwalior Road,
Jhansi 284001

AWARD

1. Central Government, Mol, New Delhi vide notification no.L-12011/40/2010-IR(B-II) dated 11.05.2011, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Central Bank of India, Jhansi in not releasing promotion to Sri Milap Chand CTO posted at Bara Bazar is just & proper? What relief the concerned workman is entitled to?

3. In short the case of the union on behalf of the worker is that while posted at the post of CTO at Bara Bazar Branch, Jhansi, he appeared in promotional examination for the post of JMGS-1 in the year 2006 and he was declared successful and after conducting interview the worker was promoted at the post of officer. The bank instead of relieving the worker to join the post served upon him charge sheet dated 04.09.2006. On the basis of inquiry he was awarded punishment of recovery of an amount of Rs.16000/- and the appeal against the punishment was maintained by the appellate authority. It is alleged that order to recover the amount do not fall within the definition of punishment according to the provisions of various settlements. In this

way the worker is not connected with any misconduct and lastly it is prayed by the worker that the action of the opposite party be declared as unjust and unfair and he be held entitled to be promoted with effect from 2006.

4. Management has filed the reply against the claim petition of the worker denying all the allegations. It is pleaded that after receipt of a complaint from the account holder Smt. Urmila, the concerned worker was issued a memo and opportunity was granted to him to submit his reply and the reply of the worker was not found satisfactory by the competent authority. Smt. Urmila filed a complaint against the worker and Sri B K Gautam before Consumer Forum Jhansi, regarding illegal withdrawal of R.46000/- from the account and after hearing the both parties an order dated 12.10.06 has been passed against bank with direction that the bank is free to recover directed amount from the concerned employees. An appeal against this order was also filed before the Appellate Forum wherein by interim order the impugned order was stayed with direction to deposit Rs.46000/- before the Consumer Forum Jhansi. Lastly it is pleaded that gross misconduct has been proved against the worker therefore, he is not entitled for his promotion etc. as claimed by him. Accordingly his claim is liable to be rejected.

5. By paper no.10/1 authorised representative for the worker has filed 9 papers. The bank by paper no.17/1 has filed one paper. By paper no.19, the bank has also filed certified copies of the decision of District Consumer Forum and Appellate Forum.

6. Worker has not adduced evidence and his evidence was closed therefore, learned representative for the management has also endorsed on order sheet that there is no need to adduce any oral evidence on behalf of the bank.

7. I have heard the arguments of the parties at length and have also gone through the entire records of the case.

8. It is not at all in dispute that Smt. Urmila an account holder of the bank had filed a complaint before the District Consumer Forum and the said case was decided in her favor and against the worker. The worker has also preferred an appeal before the impugned order of the District Consumer Forum before Appellate Forum and the appeal so filed by the worker was dismissed by order dated nil being devoid of merit.

9. As worker has not adduce any evidence to establish that inquiry conducted by the management is not just proper and fair as such his contention against the inquiry is not proved.

10. Therefore, considering the overall matter available on the record I do not consider it fit to disturb the order of the disciplinary authority as upheld by the appellate authority.

11. Accordingly it is held that the action of the management as referred to in the schedule of reference order is just fair and proper and needs no interference.

12. Therefore, the worker / union is not entitled for any relief pursuant to the reference order.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 14 मार्च, 2016

का.आ. 547.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 25/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.03.2016 को प्राप्त हुआ था।

[सं. एल-12011/91/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 14th March, 2016

S.O. 547.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 14.03.2016.

[No. L-12011/91/2012-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SRISHUBHENDRA KUMAR, HJS,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOR COURT,
KANPUR**

Industrial Dispute No. 25/2013

Between-

The General Secretary in the case of (Ashok Kumar Jaiswal),
U.P. Bank Karamchari Sangh,
45-A Chander Nagar, Lal Bangla,
Kanpur.

And

Deputy General Manager,
Punjab National Bank,
Circle Office,
Birhana Road,
Kanpur.

AWARD

1. Central Government, Mol, New Delhi vide notification no.L-12011/91/2012-IR(B-II) dated 07.03.2013, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Punjab National Bank Kanpur in debarring Sri Ashok Kumar Jaiswal for officiating as special assistant officer till 23.12.12 and allowing officiating to others on same grounds is just fair and legal? What relief the workman concerned is entitled to?

3. After receipt of reference order several notices through registered post were sent to the union raising the dispute but neither union put in appearance in the case nor filed claim petition. Union was also provided with sufficient opportunity in this regard but the union failed to avail the opportunity. Therefore, it appears that the union is not interested in prosecuting his case as such the reference is liable to be answered against the union for want of pleading and proof.

4. Accordingly reference is decided against the union holding that the union is not entitled for any relief what so ever in the absence of pleading and proof.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 14 मार्च, 2016

का.आ. 548.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 25/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 14.03.2016 को प्राप्त हुआ था।

[सं. एल-12012/105/2007-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 14th March, 2016

S.O. 548.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 14.03.2016.

[No. L-12012/105/2007-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR,
PRESIDING OFFICER HJS, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOR COURT, KANPUR**

Industrial Dispute No. 25/2008**Between-**

Sri Mohd. Wazid,
S/o Sri Mohammad Mustafa,
R/o ED-24 ADA Colony,
Naini,
Allahabad.

And

The Assistant General Manager,
Bank of Baroda,
Regional Office,
Civil Lines,
Allahabad.

AWARD

1. Central Government, Mol, New Delhi vide notification no.L-12012/105/2007 I.R. B-II, dated 07.01.2008, has referred the following dispute for adjudication to this tribunal-

2. Whether the action of the management of Bank of Baroda, in terminating the services of Sri Mohd. Wazid Messenger, with effect from 04.11.2006 is justified and legal? If not to what relief the concerned workman is entitled to?

3. Brief facts are –

4. It is stated by the claimant that the Naini Branch, Allahabad of the opposite party is under the control and supervision of Assistant General Manager, Bank of Baroda and he started working at the post of Messenger with effect from April, 2000. It is further stated by the claimant that the branch manager of the Naini Branch Allahabad, without any reason of ryhm stopped the workman from his work on verbal orders with effect from 04.11.2006. No notice, notice pay or retrenchment compensation was offered to the workman by the opposite party at the time of dispensation of his services. He has further alleged that in each calendar year he had rendered for more than 240 days of service. During the period of his employment with the opposite party neither there was any complaint against the workman nor was he ever issued any charge sheet. It is alleged that at the time of dispensation of the service of the workman juniors to him were working at the branch that are still in the employment of the bank. After dispensation of his service the workman made repeated requests oral as well as in writing for his employment before the management but all the times he was verbally assured by the concerned authorities of the bank but no written reply was ever given to him by the bank.

5. It is alleged by the workman that the dispensation of his services by the opposite party is wholly illegal and improper. The entire action of the opposite party is against the provisions of the Act. After termination of his services the workman could not get any employment despite of his best efforts and he is unemployed.

6. In the last on the basis of above it has been prayed by the workman that he is entitled to be reinstated in the service of the bank with continuity, full back wage and with all consequential benefits.

7. The opposite party has filed the reply refuting the entire claim of the workman on the ground that the opposite party bank is a public sector nationalized bank and is having its own recruitment rules and no person can be allowed to seek the employment without qualifying the recruitment process.

8. It is alleged by the opposite party that the workman was engaged purely on temporary basis to meet the exigencies as and when required. His engagement was for a specific work and for a specific period and the work entrusted to him when completed his engagement automatically came to an end and non renewal of the same is not retrenchment. As the workman was a daily wager hence the question of termination of his service or compliance of provisions of section 25 F of the Act does not arise.

9. The workman was engaged intermittently during the period from 06.05.2000 to 08.09.2004, purely on casual basis therefore, there does not exist any cause of action or alleged termination on 04.11.2006. He is not a workman as defined under section 2(s) of the Act. Workman has not worked continuously for 240 days in any calendar year; therefore, the workman is not entitled for any relief.

10. The workman was never the employee of the bank because he was neither appointed by the bank on any regular post, therefore, the claim of the workman is not maintainable and he is not entitled for any relief.

11. Rejoinder has also been filed by the workman but nothing new has been alleged therein.

12. Worker Mohd. Wazid has examined himself as w.w.1 and management examined Ram Palat as M.W.1 and Sri Manglesh Dubey as M.W.2.

13. Both the parties have filed documents which will be discussed at the appropriate stage.

14. After hearing both the parties my predecessor has passed an award on 31.12.13 against the workman with the observation that the worker has failed to prove his continuous working of 240- days.

15. Aggrieved by the award worker ha preferred writ (C) no.46759 of 14 before the Hon'ble High Court Allahabad, Mohd. Wazid versus Presiding Officer and others which

was decided by the Hon'ble High Court vide order dated 23.2.15 and the award of the tribunal was set aside and the matter was remitted to the tribunal to decide it afresh according to law.

16. I have heard the parties representatives at length and have also examined the record carefully.

17. A perusal of the judgment dated 23.2.14 of the Hon'ble High Court reveals that the writ was decided after hearing counsel of the petitioner and none appeared on behalf of respondents. Hon'ble High Court has held that the worker has moved an application dated 26.10.09 before this tribunal for summoning certain documents. Despite moving of application by the worker documents were not summoned. It has been further held by the Hon'ble Court that the petitioner has pressed his application for summoning of records. However, Respondent no.1 did not pass any orders on the said application. It was also held that the respondent no.1 should have directed the management to produce the records in evidence.

18. It appears from the records of this case that the worker has moved application for summoning of certain documents from the management on 26.10.09 against which management filed objection. The application for summoning the records was decided by predecessor on 25.08.10 in favor of the worker and management was directed to file payment scroll register for the year 2005-06 and vouchers for the period 2003-04. Considering the fact that the management has only filed some vouchers and did not file payment scroll register my predecessor has passed a detailed order on 02.08.11 observing that proper inference will be drawn at the time of arguments if any malafide is found and fixed a date for recording evidence of the parties.

19. Perhaps that these facts were not brought to the notice of the Hon'ble High Court by the counsel of the petitioner or rather wrong facts were placed before the Hon'ble Court that summoning application has not been decided by the tribunal while from the discussion it is clear that summoning application of the worker was decided by my learned predecessor in favor of the worker and when the management failed to file payment scroll register my predecessor has passed a specific order for taking proper inference to the time of arguments, if any malafide is found.

20. Now coming to the merit of the case it has to be seen whether worker has been able to prove his case and further it is also to be seen whether non filing of payment scroll register any prejudice has been caused to the worker.

21. Briefly, the case of the worker is that he started on the post of messenger w.f. April 04 at Bank's Nani Branch at Allahabad under the control and supervision of Assistant General Manager, Bank of Baroda and the branch manager of Naini Branch, Allahabad without any reason stopped worker to work and terminated his services orally. He was not paid any retrenchment compensation or notice. While

management in its reply refuted the entire claim of the worker and alleged that the worker was engaged temporarily to meet the exigencies as and when required. His engagement was for specific work and for specific period and work was entrusted to him and when it was completed his engagement automatically came to an end. It is further alleged that the worker was engaged intermittently during the period from 06.5.2000 to 08.09.04 purely on casual basis, therefore, there does not exist any relationship of employer and employee between the bank and the worker and also there does not exist any cause of action or alleged termination on 04.11.06. He is not a workman nor has ever work for 240 days of continuous service in any calendar year.

22. Worker Mohd. Wazid in his evidence has deposed different version by stating that he was appointed in the bank at Naini Branch on 24.4.2000 as peon but was not given any appointment letter. He has worked in the bank till November 06 continuously. It is strange that the worker has not disclosed the mode of payment of wages in his claim petition and for the first time in his evidence he has alleged that he was being paid his wages through voucher which were entered in payment scroll register. Bank has not furnished payment scroll register in the tribunal on his demand. He has admitted his signatures on the vouchers filed by the management paper no. 15/2-11. He further alleged that at the time of his termination he was receiving at the rate of Rs.1200 or 1300 per month.

23. In his cross examination he has deposed that he has not given any application for his appointment nor was interviewed nor is getting any benefit as is admissible to the regular and permanent employees of the bank. He has further admitted that he has not filed any document to show his continuous working from 24.4.2000 to Nov. 06. He had worked continuously for 240 days in every year but has not filed any documentary evidence. He has further admitted that he has not filed any documents to show his working from 9.9.04 to November 06. His attendance was not taken in bank. Firstly he was paid his wage weekly on daily basis and thereafter after 15 days. Worker has filed paper no.8/3-7 through list 8/1 wherein it is shown that it is photocopy of saving bank pass book in which entries of receiving wages through cheque are entered but this fact has not been disclosed either in claim petition nor this photocopy of pass book is proved by worker in his evidence. Moreover by perusal of this pass book it reveals that this paper is fake as no number of account is shown in pass book and on paper no.8/4 only entries of withdrawal are mentioned and on paper no. 8/5-6 only entries of deposits are mentioned and on paper no.8/7 only entries of balance are mentioned and on this paper 5 last entries shown in correct figures which create a doubt that pass book furnished by worker is a fake paper. As he has stated in his evidence that he was receiving his payment through vouchers it cannot be believed that simultaneously worker

will receive his wages through cheque also. Worker has also filed copies of vouchers which are paper no.8/9-12 of different dates from 2001 to 2005 and also admitted vouchers filed by the bank which makes it clear that worker was receiving payment through vouchers only. Worker has also filed vouchers of different dates which are paper no.8/16-31. In all these vouchers the signature of the worker is appearing on the back of it. A perusal of all these clearly establishes that the worker was never paid any amount of wages. These vouchers related to the payment of different work like stationery charges, sundry charges and repairs etc. Worker has not filed any voucher to show that he had received any payment of wages through vouchers. Therefore, under these circumstances the version of the management is acceptable that worker was engaged for intermittent period only purely on temporary basis to meet the exigencies of work as and when required.

24. In this regard management examined two witnesses M.W.1 Ram Palat and M.W.2 Manglesh Dubey.

25. M.W.2 has stated that during his working period from 21.07.98 to August 05 as cashier worker was taken work of bringing stationery and for other work as and when required. He has not worked for 240 days in any calendar year and after 8.9.04 his services were not utilized for any work as daily wage.

26. M.W.1 Ram Palat has stated that he was posted in bank from 24.05.06 to 14.08.09 and during his posting he came to know that Mohd. Wazid was never appointed by

the bank and his services were taken for bridging stationery and supplying water to the staff and customer of the bank and he was engaged for intermittent period and has never worked for 240 days in any calendar year. Worker has also admitted in his cross examination that he has not filed any documentary evidence to show his continuously working from 24.04.2000 to Nov.06.

27. Learned representative for management has argued that payment scroll register could not be traced out and filed before the tribunal. He further contended that as worker has admitted to have received wages through vouchers therefore, worker could not get any benefit if management would have filed payment scroll register. He further impressed that in entries in payment scroll registered are entered only where cash payments are made after issue of token and there cannot be any entry of amount paid through vouchers. Therefore, the tribunal is of the view non filing of payment scroll register is not fatal on the case of the management and also no prejudice is caused to worker.

28. From the above discussions, tribunal is of the view that the worker has palpably failed in establishing continuous working of 240 days in any calendar year. Therefore, he is not entitled for any relief.

29. Reference is therefore, decided against the workman and in favor of the management.

SHUBHENDRA KUMAR, Presiding Officer